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MARRIAGE AFFINITY QUESTION:

OR,

MARRIAGE

WITH

THE SISTER OF A DECEASED WIFE
FULLY DISCUSSED,

IN

THE LIGHT OF HISTORY, ECCLESIASTICAL AND CIVIL LAW,
SCRIPTURE, REASON, AND EXPEDIENCY.

BY

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PREFACE.

THE author of this work has, in a few introductory remarks, expressed his views of the importance of the subject of which it treats, and his conviction of the necessity that there is, that those who are interested in the defence of the truth, and in the preservation of the authority and obligation of God's Word and Law, should awake to its earnest consideration.

This conviction has strengthened with the progress of his inquiries. He does not conceal his anxiety for the issues of the controversy. This anxiety does not arise from the smallest misgiving as to the scriptural strength and soundness of the argument against the marriage of a man with the sister of his deceased wife. It arises in his mind from the difficulty, in this age, of getting the generality of men to investigate with patience the decisions and principles of the Word of God; and still more, to admit the universality and extent of their obligation, even when they are known.

The strength of his own convictions of the truth of the ancient faith, and of the scriptural wisdom of our reforming forefathers in the principles they maintained, and the judgments they pronounced, on the subject, has been increased by every succeeding step in his examination of the several points which have come under his review.

He has examined every thing on the opposite side of the question on which he could lay his hands. He has been more anxious to see what had been said or written against the views which he holds, than to see what had been said or written in their favour. He is not aware that he has avoided any difficulty, or that he has practised any concealment, or been guilty of any misrepresentation of the views or arguments of opponents. At the same time, he has not scrupled to deal with all plainness, and even severity, with what he has believed to be glaringly contrary to truth, inju-

rious to good morals, or subversive of proper reverence for the Word and Law of God. He has no sympathy with the practice of drawing a "silver veil" over what is truly odious and deformed, especially when men are thereby allured to cherish and admire it.

The writer has been more anxious to produce a sound and complete argument than to obtain the praise of originality. His views and arguments, however, are his own, and arrived at by his own independent train of thought.

He has occasionally noticed in the text the point at which he had first seen the works of certain authors, not for the purpose of guarding his own claim to originality of thought or argument, but to show that the same truth which had commended itself to his own mind had previously commended itself to the minds of others. In this connection he may explain a circumstance, which is of small moment in itself, but which may strike the mind of the attentive reader as an anachronism in the composition of the work, viz., that it has happened, once or twice, that an author is quoted or referred to in a certain part of the work, and then it is intimated, in a later part of it, that his work had been seen or perused for the first time. The simple reason of this is, that the first reference or quotation has been an after insertion into the manuscript, or inserted while the sheets were passing through the press.

The author has only to add, in the way of prefatory remark, that his object in making extracts having been to adduce evidence in support of his argument, he has chosen rather to make extracts of considerable length, than to spend his time and labour, and to diminish their effect, in attempting either to work them up into the general composition, or to make them his own by transfusing them into his own style and language.

He cannot conclude without acknowledging his obligations to the Rev. Robert Bremner, of this city, for his kindness in examining the proof sheets, and for many valuable hints and suggestions in the progress of the work; and to him, and other private friends, as well as to the Glasgow University Library, and Edinburgh Advocates' Library, for the use of some valuable works, which it was necessary to consult, and which were not in his own possession.

GLASGOW, *April* 1854.

MARRIAGE AFFINITY QUESTION.

No one who has directed serious attention to this subject, and is capable of taking a comprehensive view of its bearings, can have failed to perceive that it is at once very grave in its character, and far-reaching in its extent. It raises questions of fundamental importance to the existence of the Church, of social order, and of religion itself. It reaches deep into the principles on which must rest the integrity of the Scripture Canon, the Rule of Faith, and even the obligation on Christians of the moral law itself, as revealed in the Ten Commandments, as an authoritative rule of life. The truth of this, it is believed, will appear as we proceed. The assault on long-established and universally-received truths has generally this advantage, in free countries at least, that it is allowed to proceed far before the friends of truth take the alarm. Long after the change has been descried by the more observant and penetrating, who know the bearing of principles, and have been accustomed to mark and to weigh their results, as unfolded in the history of churches and nations, and in the moral government of God; the mass of society, and of those who take their "form and pressure" from the men and the things which surround them, can with difficulty be roused to perceive the dangers that are imminent, till error and wickedness have obtained such a footing that resistance becomes almost hopeless, and even impossible. Few men live by faith. They can only see the danger of bad principles when fully developed in their pernicious effects. It seems as if the social or corporate evils induced on fallen humanity by its own depravity, could be remedied only when they come to such a height as to subvert society, excite great revolutions, or draw down the manifest judgments of God. Social evils are not developed in a day; and even long after they have taken root, and budded, and blossomed, will the world refuse to believe that they can ever ripen into their poisonous and destructive fruit. This is especially the case where the principles of God's Word have to come into collision with the passions and interests of men. Such is the case with the present question. It cannot be denied that it has made immense progress in what we deem the wrong direction, while yet little or no effort has been made to stem the torrent of unsound opinion. The enemy has been widely sowing the tares, while we have not only slept, but have disliked exceedingly to be awakened. If the Church of Christ, holding what we believe to be the

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truth on this subject, will not arouse itself in a cause where passion, wealth, and influence stimulate activity and zeal, and furnish means to its enemies to overthrow it, the result cannot be very long doubtful.

We are often told that we live in an age when nothing either can or ought to stand which cannot abide the most searching investigation, and we complacently think that the Scripture adage is now reversed, "Say not that the former times are better than these, for thou dost not inquire wisely concerning this matter." There is both truth and error in the statement. I admit that in all matters of physical science or material interest, men are intent on searching them to the bottom, with a view to reach the actual truth, and so obtain the actual material benefit, which cannot be obtained in any other way. I doubt much if they are equally in earnest to reach the actual truth in things spiritual and moral, and to bow to its authority if it were attained. I believe the contrary to be the fact. They commence, not with the desire of discovering the true, and on its being attained, proceed with the simple resolution to follow it; but with the desire to discover the agreeable and the convenient; not to discover, but to evade or turn the edge of the truth. They reject the authority that is divine, under colour of denouncing the authority that is human; and they play with the foundations of truth and error with as much levity and reckless caprice as a child does with its castle-building materials, and with as much reckless glee could see the temple of truth destroyed, and scarcely even make the fool's apology, "Am not I in sport." How else is it, that in things of the most solemn importance, affecting the glory of God, the honour of His law, and the whole relations of human society, civil and ecclesiastical, public and private, they flaunt in our faces, as their standard, the loose, inconsiderate sayings of some popular divine, or selected specimens of ecclesiastics little famed for Bible orthodoxy—some Neologian critic, or Talmudical Jew—or some clever lawyer, more remarkable for political dexterity than for gravity of religion or steadiness of morals—nay, of some popular novelist, male or female—and then solace themselves with the quietus, "If we have erred, it is in good company?" This may do very well to shut the mouth of "a man as I am;" but it will not do so to deal with God, and the things of God; and let all men know, that at the great day of account it will signify very little whether the company in which men have erred has been good or bad. It *will*, however, signify a great deal if they have erred in misinterpreting and subverting the law of God, and overthrowing the faith of many; and good company will prove as small a shelter as it is an apology for approaching things sacred in a spirit so irreverent.

This spirit of frivolous irreverence, when dealing with the Word of God, is not peculiar to the present time. It is not even characteristic of an age properly called sceptical. It is as characteristic of the reign of Popery as of infidelity, and is a perfect contrast to the noble inquiry of the genuine Reformers—"What saith the Lord?" It is, at all events, not the spirit befitting a subject so delicate and grave as that which we are about to consider; and I trust it will be treated by us with all seriousness, and though with little respect to human authority, when it traverses the authority of God, yet neither with presumption nor with undue self-confidence. It is a question of great difficulty, as well as of vital moment. "The question concerning the marriages of those who are connected by blood or affinity, is sufficiently grave, and not seldom agitated with great

heats. For he who shall wish to assign the true and natural causes why such marriages are so unlawful that they are forbidden by law and morals, will learn by experience how difficult it is; nay, it cannot be estimated.* The writer desires, therefore, to enter upon it and discuss it with caution and humility, and with earnest prayer to God that his efforts may be for His glory, and the vindication of His truth and law. It is with the desire and hope of awakening some interest on this question, especially in the church to which he belongs, and of furnishing those who have not access to the main sources of information on the subject, with a general view of the facts and arguments in support of the views he holds, that he is induced to undertake the present work.

The following are the Heads of Argument and Discussion under which it is proposed to treat the subject:—

- I. The State of the Question, with the testimony of the Church and the Relative Testimony of Human Legislation in Past Times.
- II. The Law of Nature—what it is, and to what extent it can be a rule on this subject.
- III. The Word of God, and in what way it is to be used as a rule and law on this and other social questions; and under this head,—
 1. To show that the whole Word of God—Old Testament and New—is our rule:—
 2. The bearing of Levitical law on the question:—
 3. The bearing of the 18th Chapter of Leviticus in particular:—
 4. To whom, and on what principles the 18th Chapter is addressed:—
 5. On what principle, as applicable to the question before us, it is to be expounded.
 6. To consider the special Texts in this Chapter bearing on the point at issue.
- IV. The effects of the opposite opinions both on Principle and Practice.
- V. What weight is due to Authorities on the question.

CHAPTER I.

THE STATE OF THE QUESTION, WITH THE TESTIMONY OF THE CHURCH AND THE RELATIVE TESTIMONY OF HUMAN LEGISLATION IN PAST TIMES.

Section I.—State of the Question.

HERE it may be proper to state, in the outset, that the writer is the farthest possible from holding the notion that "Catholic Consent," whether real or pretended, is "a divine informant, either supplementary to, or interpretative of Scripture." He holds, with the learned divines of the Westminster Assembly, that "the authority of the holy Scripture, for which it ought to be believed and obeyed, dependeth not upon the testimony of any man or church, but wholly upon God, (who is truth itself,) the author thereof; and therefore it is to be received because it is the Word of God"—and so he holds of every truth revealed in the Scripture,

* Grotius, "*De Jure Belli ac Pacis*," lib. ii. sec. xii.

and of every duty therein enjoined. Yet, with these same divines, he also holds, that "we may be moved and induced by the testimony of the Church to an high and reverend esteem of the holy Scripture;" and in like manner, at least, be moved carefully to weigh the opinions that are contradicted by this testimony. He is chiefly, however, induced on the present occasion to have recourse to this testimony, by the somewhat contradictory allegations of the parties who are making such strenuous exertions to unsettle the minds of the Christians of Great Britain on the present question—viz., 1. That the views held by the Reformed Churches, and especially by those of England and Scotland, are only the remains of Popish tyranny; and, 2. That they are traceable to the influence of Henry VIII. of England, which both swayed and corrupted not only the ecclesiastics of his time, but bribed the Universities, both of England and the Continent, to decide in his favour when he wanted a dispensation from the Pope to annul a marriage that stood in the way of the gratification of his desires. Both of these statements cannot be true, and it can be shown that they are both false. Let it be understood, therefore, that the writer enters upon this part of the subject rather as a measure of defence than attack; rather for the purpose of clearing away obstacles unfairly interposed to the free reception of the authoritative decisions of God's Word, than to bring any pretended support to them from the doctrines and commandments of men.

The proper question to be discussed is, Whether a man is morally warranted, on the footing of divine authority, to marry the sister of his deceased wife; or, if not having a positive warrant, is he prohibited from doing so? It is well known to those who have looked into this question, that it has been argued and maintained on grounds that not only justify polygamy, but on such grounds as involve the denial that there is such a crime as incest at all, and wholly destroy the divine authority of marriage in any other sense than that a man is bound to fulfil an obligation he has voluntarily come under to one or more women; and *e converso*, that a woman is bound to fulfil an obligation she has come under to one or more men—in fact, on grounds that end in pure Socialism. In opposition to this, the doctrine we hold and maintain, so far as necessary to be stated for our present purpose, is contained in the first and fourth sections of the 24th chapter of the Westminster Confession of Faith, which are as follow:—

"I. Marriage is to be between one man and one woman; neither is it lawful for any man to have more than one wife, nor for any woman to have more than one husband, at the same time.

"IV. Marriage ought not to be within the degrees of consanguinity or affinity forbidden in the Word; nor can such incestuous marriages ever be made lawful by any law of man, or consent of parties, so as those persons may live together as man and wife. The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own."

At present I am only stating the question, and not arguing it. But in regard to the first section of this 24th chapter of the Confession of Faith, let the reader observe what it does, and judge for himself, whether the statement is warranted. It quotes the original institution, Gen. ii. 24, "Therefore shall a man leave his father and his mother, and shall cleave to his wife; and they shall be one flesh." Matt. xix. 5, reaffirming by

our Lord the same words, is then quoted, with the addition, (verse 6,) "Wherefore they are no more twain, but one flesh. What, therefore, God hath joined together, let not man put asunder;"—giving us thus the original and the final law on the subject, with which we at least have finally to do. It thus proves very clearly, that the Word of God has determined, as the original law at the creation, and as the Christian law laid down by our Lord, and therefore the perennial, immutable law of God, that marriage shall only be between one man and one woman. The bearing of this on the present discussion will afterwards appear.

In the fourth section it says, "Marriage ought not to be within the degrees of consanguinity or affinity forbidden in the Word." In proof of this doctrine, the Confession refers to the whole 18th chapter of Leviticus; and the man is not to be reasoned with who denies that there are degrees of affinity forbidden in it, equally with degrees of consanguinity.

The portion of the Confession of Faith which embodies the subject of the present discussion is the following:—"The man may not marry any of his wife's kindred nearer in blood than he may of his own, nor the woman of her husband's kindred nearer in blood than of her own." The passages quoted in support of this general statement are the following:—

Lev. xx. 19-21, "Thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister; for he uncovereth his near kin: they shall bear their iniquity. And if a man shall lie with his uncle's wife, he hath uncovered his uncle's nakedness: they shall bear their sin; they shall die childless. And if a man shall take his brother's wife, it is an unclean thing; he hath uncovered his brother's nakedness: they shall be childless."

These passages are quoted in proof of the general principle, that a wife's kindred are held to be in the same relation to her husband, in reference to the law of marriage, as his own. Cases are given, in which the man is forbidden to uncover the nakedness of parties who have no blood relation to himself, though they have been married to blood relations, and so on account of this affinity he is forbidden to marry them; and the peculiar punishment,—for this chapter treats of the punishment,—is the proof that it is a punishment for marrying in this relation, after the uncle or brother is dead; for both the man and the woman are to *die* childless. They shall not have children, or if any of them have had them before the marriage, they shall be cut off. It is well, then, that we see what the Confession of Faith maintains, and how it maintains it.

Such is the opinion held in the professed creed, not only of the church to which the writer belongs, but in the creeds of all those in Scotland who have a creed,—that is, its whole Presbyterian population,—and, also, so far as the writer knows, by all the smaller bodies of Christians who have any title to be considered as holding the true catholic faith. What the opinions of individuals among some of those bodies are, is not now the question.

Section II.—Opinions of the Jews.

Though the opinions of the Jews as Jews are not properly the testimony of the church, yet it is proper under such a head to advert to them. Their opinions merely as opinions are not of very great value; nevertheless, as much use is made of them by those who are anxious to settle this question by the force of names and numbers, and are not very nice in their selection,

it is necessary to know what they are. We are not aware that much can be ascertained as to the opinions of the Israelites, previous to the time of our Lord, on the present question, in so far as they differed from the Scriptures, or went beyond them. Wherein they differed or added, our Lord decides what authority is due to them, viz., that they "made void the law of God by their traditions, and taught for doctrines the commandments of men." They do not seem at any period of their history to have fully recognised in their conduct the revealed will of Jehovah, and it is not very likely they would strictly interpret the law that condemned themselves. God said of them in David's time, "It is a people that do err in their heart: they have not known my ways," Ps. xcv.; and Isaiah in his time, "They rebelled and vexed his Holy Spirit." And Stephen said, "Ye do always resist the Holy Ghost: as your fathers did, so do ye." At the time of the captivity of Babylon, the great body of them were idolaters, and though after the return from captivity they never fell actually into the sin of idolatry, yet they fell into the crimes for which the curses were denounced in Deut. xxviii. They crucified the Lord of glory—and these curses were speedily and awfully executed to the letter; and "wrath came upon them to the uttermost." Their posterity approve of their sayings, and have served themselves heirs to their doings.

From what is stated by an American writer* on the opposite side of the question, he admits that Maimonides held that the marriage of a man with his deceased wife's sister was disapproved of by the ancient Jews. This writer says, "As to Maimonides, a learned Spanish Jew, living in the twelfth and thirteenth centuries, who states that the ancient Jews disapproved of the marriages in question, it is hard to perceive how his authority respecting the laws of Moses should be preferred to that of a learned German." Hard certainly, if the authority were the question. But the question is only as to a matter of fact, viz., what opinions the ancient Jews held. Grotius held the opinions of Maimonides on such a point somewhat high. There will be occasion to refer more fully to Grotius in the sequel. Meantime, when demonstrating that the heathen held certain connections in the case of those related merely by affinity to be abominations, and that if this opinion were not absolutely derived from the law of nature, yet it followed from ancient tradition as a divine precept, he adds:—"The ancient Hebrews are not to be despised as interpreters of the divine law in this matter, and Moses Maimonides, who has read every thing about them, and digested them with the highest judgment," &c. &c.† Whatever may be in this, it will be admitted that his opinion is not of less value than that of Dr Adler, a Jewish Rabbi of London, which has been so widely circulated by the Libertarians,‡ in a collection of alleged facts and opinions, and which we shall notice hereafter.

Maimonides in his "More Nevochim," pars. iii, cap. xlix., which treats "Of the causes and reasons of the precepts of the fourteenth class," after assigning as the reason of the prohibited degrees, that of the necessary domestic intercourse of near relations, and the consequent danger to morals, even to the extent of saying, that if the decision, in regard to women so related, were the same to a man as in regard to other women free to marry,

* Marshall, "Lawfulness of Marriage," &c.

† Grotius, "De Jure Belli ac Pacis," lib. ii. sec. xiii.

‡ I use this word to avoid constant circumlocution, both as the most characteristic of what those on the other side contend for, and as the least offensive that occurs to me.

and that marriage with them were not prohibited under any penalty, says, "The greater part of men would live in sin without end (*indēsinenter in Scortationibus viverent.*") He is very minute in specifying the ways and the parties, and in these the brother of the husband and the sister of the wife are named. Then he adds, (I quote from Buxtorf's Latin translation), "*Altera causa meo iudicio est, ut pudor et verecundia nobis commendetur. Nam quia impudentiæ summæ est opus istud intra radicem et ramum (h. e. in uxorem ducere matrem aut filiam); idcirco prohibitum est matrimonium inter radicem et ramum. Neque est differentia, sive radix ramum, aut ramus radicem ducat, sive radix et ramus in corporis tertii connubio convenient, ut nempe aliquis corpus secum radici et ramo detegat.*" He adds, "*Ideo enim prohibitum est ducere mulierem et filiam ejus, item uxorem patris et uxorem filii; quia ista sunt resectio nuditatis corporis unius nuditati radicis et rami. Fratres se habent ut radix et ramus: hinc quia prohibita est soror, prohibita etiam est soror uxoris, et uxor fratris; quoniam hæc est duorum individuorum, quæ sunt sicut radix et ramus in conjunctione corporis tertii.*" That is, "Therefore, then, it was prohibited to marry a woman and her daughter, also the wife of a father, and the wife of a son; because these are the uncovering the nakedness of one body to the nakedness of the root and the branch. Brothers are to one another as the root and the branch: hence because the sister has been prohibited, so also has been prohibited *the sister of the wife, and the wife of the brother*; since this is the case of two individuals, who are as root and branch in the conjunction of a third body." The reason assigned by Maimonides for the prohibition in these cases, every pure mind must approve of, viz., that it commends chastity and modesty, and it argues, he says, the height of impudence that there should be marriage between the root and the branch.

I believe that on a point connected with this subject some have been led to state the case of references to the opinions of the Rabbinical Jews, greatly more strongly than these opinions warrant. For instance, Dr Eadie, in his letter of date 27th May 1850, states the case in the following confident, at least confiding terms:—"But surely the people for whom the law was intended are entitled to be heard as to their interpretation of it? Yet on the Glasgow platform Israel was ignored. The law was made for their guidance, and how did they understand it? The uniform understanding of the statute, so far as can be ascertained, harmonises with the opinion we have advanced—the small sect of Karaites only are excepted. We have proof in the Mishnah (Yebamoth, iv. 13)—proof reaching from Philo, in the days of the apostles, down to Zunz, whose 'Gottesdienstliche Vorträge der Juden' appeared at Berlin in 1832. Surely the 'Children of the Covenant' are able to interpret the language of its common and secular enactments." There are as many questionable points in this passage as there are clauses. 1. In the first place, an ordinary reader would suppose that the Rabbins referred to gave their opinion when they were living *under* "the covenant;" whereas it was long after the time of Christ, and they were driven forth and dispersed for breaking the covenant, and "blinded," degraded, and hardened, under the "curse," for rejecting it. 2. They were not remarkable at any time for a conscientious interpretation of the "covenant," but for making it "void by their traditions." 3. Even *their* "understanding of the statute" was the farthest possible from being "uniform," as we shall presently show from the passage in the Mishnah referred to. 4. The opinion

of Philo, as we shall afterwards see, is any thing but certain on the side of Dr Eadie. The opinion of Maimonides we have seen to be the reverse. What Zunz says Dr Eadie has not told us, and it is believed Christian men will not be very anxious to know. 5. The place referred to in the Mishnah does not bear on the statute at all, and forces us to doubt if Dr Eadie has ever looked at it for himself; or, if he has, to stand amazed at the confident tone of the remarks above quoted. The passage referred to by Dr Eadie, but not given, occurs in the Mishnah in the "Treatise concerning the Duties of Levirites to Brother's Widows."* Any one who will read or even glance at the treatise, will have fully as much difficulty with the "tedious and perplexing casuistry and solemn frippery" of the Mishnah, as Dr Eadie attributes to the Canon law. The following is Surenhusius' Latin translation of the passage, and any one who will compare it with the original will see it is strictly accurate:—(Yebamoth, cap. iv. § 13.)—"Quisnam est Spurius? Omnes carni propinquis ob quem transgredimur preceptum *non veniet*, &c., verba R. Akibæ. Schimeon Temanites dicit, omnis propter quem rei sunt excisionis per manus cœlorum; decisio est juxta verba ejus. R. Jehoschua dicit, omnis propter quem rei sunt mortis domus judicii. Dixit R. Schimeon filius Asai, inveni volumen genealogiæ Jerusalemis, in quo scriptum erat, N. Spurius est ex uxore viri, ad confirmandum verba R. Jehoschuæ. Si mortua fuerit uxor ejus, licitus est sorori ejus; si repudiaverit eam et mortua fuerit, licitus est sorori ejus; si nupserit alii et mortua fuerit, licitus est sorori ejus; si fratria illius mortua fuerit, licitus est sorori; si calceum illi dederit exuendum, et mortua fuerit, licitus est sorori ejus; si nupserit alii et mortua fuerit, licitus est sorori ejus." The whole point in discussion is—the duties of the brother when his brother died and left no child. A great variety of points are raised and opinions given under the three first chapters, and under the preceding twelve sections of the fourth chapter; some of them curious enough. The twelfth section of chapter four is—"If any one shall have brought back (reducerit) his repudiated wife, and hath married her who hath plucked off the shoe, and married the near of kin of that one who hath plucked off the shoe, shall take her, and the son shall be spurious (Mamzer), are the words of Rabbi Akiba. Wise men say, the son is not spurious, and (wise men) grant concerning him who shall have married the near of kin of his repudiated wife that the son is spurious." Section thirteen immediately follows:—"Who is spurious? Every one near of kin on account of whom we transgress the negative precept, *He shall not come*, &c., the words of R. Akiba. Simeon Temanites says, Every one on account of whom they are guilty of cutting off by the hands of heaven, the decision is according to his words. R. Joshua says, Every one on account of whom they are guilty of the judgment of the death of the house. R. Simeon, son of Asai, hath said, I found a roll of genealogy at Jerusalem in which it was written, he is spurious from the wife of a man, to confirm the words of R. Joshua. If his wife had died, he is allowed her sister; if he had repudiated her and she was dead, he was allowed her sister; if he married another and she had died, he is allowed her sister; if the brother's widow of that one had died, he is allowed her sister; if he shall have given the shoe to be loosed, and she had died, he is allowed her sister; if he married another and she had died, he is allowed her sister." What have

* The Levirite was the brother-in-law, whose duty it was to marry the sister of a deceased brother who had left no children.

we here, then, to justify Dr Eadie's appeal to the clear Jewish interpretation of the statute, as proving that a man, in any circumstances, might lawfully marry the sister of his deceased wife? Nothing of the smallest weight. And the whole is the opinion of some alleged volume found at Jerusalem *some time*, on a very different point, namely, in what circumstances the child of the levirite was or was not spurious. The opinion of this nameless genealogist is contrary to the generally, if not universally received opinion, that a man who had repudiated his wife was not thereby at liberty to marry her kindred as if he had never married her, even *after* the repudiated wife was dead. The Rabbis Ob De Bartenora and Maimonides, commenting on this passage, carefully state that the levirite is precluded from any one justly within the negative precept "*Non veniet*," &c., and that the child of every such one is spurious. Although they add that the child of a menstruous woman, with whom it was unlawful to have intercourse, was not spurious; which shows, though the son might *not* be spurious that it does not follow that the connection was lawful. And, farther still, Maimonides, a somewhat illustrious "Child of the Covenant," lays down, at the outset of the treatise, certain fundamental principles to rule the understanding of it, the second of which is the following:—"The second fundamental point is, if the brother of any one hath died and left a wife, the wife is unlawful to the brother or to one of the brethren, who are bound to undertake the levirate, or to give the shoe to be plucked off; for example, if the wife of the dead husband were the daughter of the living brother, or the sister of his wife, this brother to whom this woman is prohibited on account of the incest, he shall not enter into the levirate with her, because it is written, Lev. xviii. 18, וְאִשָּׁה אֶל אֲחֻזָּתָה לֹא תִקַּח לְצִרּוֹר, and Deut. xxv. 11 says, יִבְמָה יָבֵא עִלֶּיהָ, as if he had said, what I have told thee, *her levir* (brother-in law) *shall come to her*, it ought to be understood when she has been the sister of thy wife, *thou shalt not take her to afflict her with sorrow*, and thus we shall teach many incests of the sister of a wife." * That is to say, the first connection was unlawful incest, and the repetition of it would be the repetition of many incests. Bartenora teaches the same doctrine in his commentary, as to the levir of the woman, who was herself *stuprata*, according to Leviticus xviii. 17. That is, if the marriage of the levir with the sister of the deceased wife were allowed in these cases, there might be an endless succession of incests; clearly holding the general principle that marriage with the sister of a deceased wife is incest; and that this general principle was fundamental to the right interpretation of the law of the levirite, and one incest cannot hallow, nor ever form the foundation for hallowing, what could only be another. The reader will now judge how far the reference, Yebamoth iv. 13, is so clear proof of uniform interpretation of the statute in favour of Dr Eadie's view. In fact, so stringent, according to the Mishnah (Yebamoth, cap. iv. 7), was the law on this point, that it says that the man who gave the shoe to be plucked off, that is to say, refused to perform the duty of the levirate, nevertheless, by the presentation of the shoe to be plucked off, contracted propinquity, and was thereby, even in this case, prohibited from certain relations of the woman to whom he had given the shoe to be plucked off, and among these is her sister. The

* "סדר נשים Sive Legum Mischnicarum Liber qui inscribitur DE RE UXORIA cum clarissimorum Rabbinoꝝ Maimonides et Bartenoꝝ, Commentariis Integris, &c. Latinitate donavit ac notis illustravit, Gul. Surenhusius. Pars Tertia Amstelodami, 1700."

brother who had no connection by marriage, or by actually performing the duty of the levirate, but merely being asked to do so and refused, thereby contracted such propinquity that he was prohibited from marrying *her* sister while in life; that is, not the husband of the woman prohibited to marry the sister of his deceased wife, but *his* brother prohibited to marry her sister while she was alive, if she, his brother's widow, had called upon to him to act the part of the brother and he refused. Maimonides on this says, "The matter stands as if she were his wife and he had repudiated her."

There is another passage which, like the preceding, is referred to by Gill on Lev. xviii. 16-18, viz., as seeming to favour the opinion that certain Rabbins held such marriages lawful, viz., Maimonides, Hilcoth Issuri, Biah., c. ii. v. 9. For the sake of connection we give verses 7, 8, 9, of which the following is a translation:—

"7. When a man takes a wife, six of her relations are forbidden to him, each of which is an uncleanness (ערוה) to him *always*, whether living together or divorced, during his wife's lifetime or after her death. They are the following:—(1) Her mother; (2) her mother's mother; (3) her father's mother; (4) her daughter; (5) her daughter's daughter; and (6) her son's daughter. If he come to any of these whilst his wife is still alive, they should both be burned.

"8. But when he came to them after the death of his wife they should be cut off (כרת) [meaning either that they should die some other way, or be excommunicated]; as it is written, they should burn in the fire him and them, which is only when they are both living, viz., his wife, and she to whom he came in, then only should both himself and the ערוה be burned, but when they are not *both* alive, then there is no case of burning.

"9. Even so his wife's sister is an ערוה to him until his wife dies, whether she be her sister from her father or her sister from her mother, whether be lawful marriage or by fornication, she is an ערוה to him."

The above has been furnished for me by Mr Wolf, himself a Christian Jew, with the original words. Maimonides lies before me.

There is no greater source of error than arises from taking detached sentences or portions of passages of any writer, without examining the scope or design of the writer in the context. We have already seen the effect of this in some preceding instances. It is not less apparent in the reference now under consideration. From taking the words of ver. 9, now quoted, it has been concluded that this is a declaration by Maimonides of the lawfulness, according to the Jews, of marriage with the sister of a deceased wife. Now, were this the case, it would make his opinion of little value, seeing we have already had it expressed to the opposite effect, both in his "More Nevochim," and in the second fundamental principle laid down to regulate the interpretation of the treatise in the Mishnah concerning the duties of the levirite. But, on looking to the passage before us in its context, we see that there is no inconsistency in the opinions of Maimonides. In ver. 7 he shows in what cases the punishment of burning followed connection with certain relations of a man's wife; but in ver. 8 it is added, that the same connection after the death of the wife did not involve death by burning, but the punishment of cutting off, whatever that meant. Still there was a punishment, and the connection was, therefore, unlawful. In ver. 9 it is added, "*Even so*, his wife's sister is an ערוה to him," an uncleanness, meriting death by burning;

but, as in the previous cases, the punishment was not burning after the death of his wife, so in this also; that is to say, it was placed in the same category of guilt and punishment as the preceding relations mentioned in ver. 7. The wife's sister "is an *ארוה* to him."

Hitherto, therefore, I have not seen any passage from the Talmudists simply declaring that they held marriage with the sister of a deceased wife lawful, as a general proposition.

In so far as the opinions of the Jews are made available in this controversy for what they are worth, they are to be found embodied in those of the Karaites and Talmudists. They are fully expounded in the learned Selden's works, and especially in his "*Uxor Ebraica*," lib. i. Both sects held the general principle, that certain marriages were forbidden, as well by affinity as by consanguinity. The Talmudists professed to find eighteen forbidden in express words, or by undoubted consequence, from the sacred law, partly in the name of consanguinity, and partly in the name of affinity or propinquity. Selden (lib. i. cap. i.) says:—"As to what belongs to the first species of forbidden marriages, or those which are forbidden in name of consanguinity or affinity, the decisions of the Talmudists and Karaites differ. With the Talmudists, according to the *express words* of the *Mosaic law*, and that *which so follows from them by necessary consequence* that it must in all reason be admitted (*ut non admitti nulla cum ratione queat*), there are held for forbidden, partly in name of blood, partly in name of affinity, *only* eighteen (in which also mother, step-mother, sister, are equally forbidden to them by natural law, or by the patriarchal law), as in the following scheme." "They were so forbidden," he adds, after giving the scheme, in which the sister of a wife is included, "that only fifteen are forbidden in the express words of the sacred law, and three remaining ones, they say, by necessary consequence. Those fifteen are exhibited in the scheme in capital letters," and the sister of the wife, *SOROR UXORIS*, is one of them. They quote the following passages in proof—Lev. xviii., from verse 6 to 18, and xx., verses 14, 17, 19, 20, 21; Deut. xxii. 30, xxvii. 20, 22, 23. Any one who will consult these passages, especially Lev. xx. 21, and remember that they held prohibitions in affinity equally with those in consanguinity, can have no doubt of their views. In addition to these, there was what they called secondary women, whom it was forbidden to marry by the decrees of the Scribes and the institutions of their ancestors. Of these there were twenty, some forbidden under the head of blood, and some of affinity.

The differences between the Talmudists and Karaites it were more difficult and tedious than profitable to determine; but on the point of the marriage of a man with the sister of his deceased wife, they seem not to have greatly differed. Certain it is, there were Talmudists who held the same view as the Karaites. An attempt has been made to throw contempt on the Karaites as a small despised sect, for what reason we know not, except that the advocates for license on the marriages in question think they are more express than the Talmudists against them, though this does not very clearly appear. They professed to decide, in contradistinction to the Talmudists, solely and simply "according to the literal and simple sense, neither adding nor diminishing." Hence they were called Scripturists. They carried the number so forbidden greatly beyond what the Talmudists admitted. The Talmudists slandered them as Sadducees, just as their antitypes of Popery slander the Protestants as infidels, and accuse their

victims, the poor Waldenses, of being Manicheans.* It was chiefly on this general question that the disputes between these two sects and their sub-sects existed. The more ancient sects of the Karaites and their followers held that the relations of the wife were equally forbidden to the husband as his own, on the ground that the *unity of person* was such between man and wife that they were called *insiti*, or engrafted, and that even when divorce took place, that unity of *person* and relationship still subsisted to the third instance of marriage, and regulated all the relationships accordingly, and only ceased with the fourth. The more recent Karaites rejected this latter notion as extravagant. Nevertheless the first of the sect who rejected this notion, taught that the whole prohibition of incest, according to the sacred law, in its fundamental principles and rules, consisted in five classes; in the third of which is that of a man marrying the sister of his wife;—"so that," adds Selden (plainly intending to say, notwithstanding the strictness of their rule of interpretation) "the Karaites do not doubt but that the sister of a wife, whether dead or remaining, is to be held as in the forbidden degrees." He adds, "which the Talmudists do not admit." That is,—if we do not altogether misapprehend Selden's meaning in the passage already quoted, they did not admit that they were forbidden in express words, while nevertheless the Talmudists did not deny that such marriages were forbidden, but maintained that they were forbidden by necessary consequence. I can discover no other way of reconciling the *apparently* contradictory statements of Selden on the point. Any one reading his whole discussion, and not catching at an isolated sentence, will see there is no contradiction.† He refers in the margin to his work, "*De Jure Naturali et Gentium Juxta Disciplinam Ebræorum*," lib. v. cap. 10. On referring to that work, it will be seen that the same question is discussed, viz., whether these degrees held by them as forbidden, among which the sister of a wife was one, could be determined by the law of nature and nations, according to the discipline of the Hebrews, and whether affinity was constituted by adultery and fornication. They held that they were, and that, though the wife were divorced, it was prohibited to marry the full or the half-sister: "for they never doubted (viz., as to the point of adultery or fornication in the case of a wife divorced constituting this prohibition by affinity) concerning the sister of the deceased wife, because the words of the law concerning the wife are, *while she is alive*," and therefore divorce does not alter the matter. This is the point raised where the preceding words are used. If any one will adduce plain passages from the Talmudists to the contrary, we shall be content to plead ignorance as our apology; but, meantime, this has not been done by any of the writers on the opposite side; and though it were done, it might prove what the opinions of the Talmudists were, but would no more than other vain traditions alter the sense of Scripture.

Since writing the above, I have seen the observations of Dr Janeway, of America, on the point as stated by Selden. He is justly dissatisfied with the "Puritan," another American writer, who supposed he had full proof in the words of Selden already quoted—viz., "*Quod Talmudici non admittunt*"—for saying, in opposition to the Karaites, "the Talmudists teach otherwise." Dr Janeway does not seem fully to have apprehended

* See Selden's "*Uxor Ebraica*," lib. i. cap. iii.

† Boehmer says of Selden, that he obscured everything by the multitude of his parentheses.

Selden's meaning in the passages we have referred to ; but, in referring to it, he tries to find some authority for Selden for what in reality he does not state, and he incidentally quotes a passage from Philo Judæus, who flourished about the commencement of the Christian era, and which has an important bearing on the historical question before us. It is as follows :—"Again (Moses) does not permit a man to marry two sisters, either at the same time or at different times, even though he may have put away the one whom he took first in marriage ; for, during the lifetime of her that remains with her husband, or of her that has been sent away, whether she remains a widow or be married to another man, (Moses) accounted it UNHOLY for her sister to take the place of her that has been unfortunate, teaching them not to violate the right of consanguinity, nor to rise by the fall of one so united by descent, nor to delight and exult in being served by her sister's enemies, and in serving them in him ; for from these things arise violent jealousies and fierce contentions, producing an unspeakable multitude of evils." * Dr Janeway argues justly that Philo does not hint at the lawfulness in this passage of marrying the sister of a deceased wife. He evidently held this connection in some circumstances "unholy," and a violation in some form or other of the right of consanguinity.

I may notice here that in another part of his work, and for a different purpose, Dr Janeway quotes from the Targum of Jonathan Ben Uzziel, a passage, of which the following is a translation, on Lev. xviii. 16 :—"Turpitudinem uxoris fratris tui non revelabis vivente fratre tuo, aut *post mortem* ejus si habeat filios : *nuditas fratris* tui est."—"The shame of thy brother's wife thou shalt not reveal during his life, or *after his death if he have children* : it is the nakedness of thy brother." It is clear from this passage that he held it unlawful, on account of the incestuous sin involved, to marry his brother's widow if she had had children to the deceased brother ; because, if it had been for the reason pled in modern times for such marriages, a *widow* and *her* children had as much need of a *brother's* protection by marriage, as a *widower* and *his* children of a sister's—clearly showing also that the leviral law was limited to the peculiarity of raising up seed to his brother.

In one of the *thin* leaves issued by the Libertarians, there is the following opinion :—"Though a man might not marry two sisters together, it seems a natural conclusion from the phrase '*in her lifetime*' that he might marry the sister of his deceased wife ; and thus, we learn from Selden, the Jews in general understood it!—Dr Dodd." Where Selden gives this information, Dr Dodd has not stated ; if he meant in the passages already considered, his allegation is, at the least, doubtful. Another opinion, quoted by the same parties, is not much more to the purpose. It is as follows :—"Certainly, after the death of the wife, it was permitted to the husband to marry her sister, because she (the sister) is not among the other enumerated kindred of the wife.—RABBI LEVI." If this be only Rabbi Levi's opinion, it is simply that of a Talmudist against a Karaite, who held that Lev. xviii. 16 *was* express to the prohibition. If it be given as a historical fact, it is a bare assertion, and of no earthly value as proof.

Not more satisfactory is the vaunted evidence of Dr Adler, which is as follows :—"It is not only not considered (by whom—modern Jews ?) as prohibited, but it is distinctly understood to be permitted ; and on this

* "De Specialibus Legibus," p. 602. Geneva, 1613.

point neither the divine law, nor the Rabbis, nor historical Judaism, leave room for the least doubt." As to the divine law, any one can judge as well as a traditionalist Jew, who rejects Christ and all the evidence of his being the Messiah which the Old Testament furnishes, and whom God, according to his own Word, has given up to strong delusion to believe a lie, and to call Christ accursed. Dr Adler's evidence is contained in a letter to the Secretary of the Commission, who had requested his opinion. Like all such Jews, he proceeds on the assumption that polygamy was lawful to the Jews, makes the Scripture bend to this corrupt tradition, and treats what other men deem very strong proof against him, viz., Lev. xviii. 16, and Deut. xxv., as "unworthy of notice;" and then adds,—

"The rendering adopted by the Karaites of the words 'one wife to another,' is not only destitute of all authority, and discordant with the spirit of the sacred language, but quite contrary to the truth, *inasmuch as polygamy, which would thereby be prohibited*, was formerly permitted, as may be proved from innumerable instances." "Innumerable instances" of the violation of a law will not disprove the existence of the law. But he adds, "And all the Rabbis, too—and here we are on the ground of historical Judaism—concur in this view of the question; for in examining their opinions from the Mishnah (Jebamoth, iv. 13) downwards, to the Schulchan Aruch, Eben Ezer (sect. 15, § 26), we find that they prohibit marriage with a woman after the *divorce* of her sister, but expressly permit it *after her death*. The same conclusion must be arrived at by searching the Jewish commentators, from Philo (see his 'Special Laws of Moses,' p. 303) down to Zunz; so that, to the best of my knowledge, not a single opinion can be met with throughout all the Rabbinical writings which would even appear to throw any doubt on the legality or propriety of the marriage of a widower with his deceased wife's sister." The reader will be able to judge of the force of this statement by what has been already adduced. In such a question mere references are of no use. The passages ought to be quoted before such averments can be entitled to the least weight. An assertion that a thing "*must be*," because the admission of the contrary would prove the unlawfulness of polygamy, is a sorry evidence of an alleged historical fact. Is Dr Adler Dr Eadie's authority?—(See p. 7.)

On no higher authority does such a man as Lord Denman rest his proof, in a letter to Lord Brougham, that the Jews *always* held such marriages lawful. If not *always*, the following passage has no meaning:—"We know, from the information of their high priest, Dr Adler, that marriage with a deceased wife's sister was held lawful and constantly practised amongst the Jews; and I believe that the numerous and awful denunciations of successive prophets do not once speak of this union among the backslidings of the people." In the first place, they do not speak of such unions at all; and, in the second, Dr Adler knows as little of the ancient Jews as any other man. But one need not be surprised at this weakness of Lord Denman, as he is so totally ignorant of this controversy as to affirm what is contrary to the whole history of it, viz., that "the asserted prohibition was long supposed to be contained in Lev. xviii. 18!!"—(See Letter to Lord Brougham, p. 11.)

The prophetic argument of his lordship, viz., that the Jews are not charged with the sin of such marriages by the prophets,—is another specimen, among many, of the "clear weakness" that some able men indicate when they argue on Bible subjects. It is akin to the argument of Paley against the

moral obligation of the Fourth Commandment, that from the beginning of the creation no mention is made of it for 2500 years, till what he calls its first institution in Exod. xvi. at *Sinai*. Its first institution was at the creation of the world; it is referred to as a day well known in the 16th chapter of Exodus. No mention is made of it at all during the long period of the Judges—450 years; and the first denunciation of its neglect is not found till the time of the prophet Isaiah, 731 years thereafter. And yet, on his lordship's reasoning, there was neither such a law as the Fourth Commandment, nor any violation of it for nearly a thousand years! Such is the way by which men trifle not only with Scripture, but common sense, when they have an erroneous opinion to maintain.

On the whole, I remark on this part of the subject, that, since we see that even the Talmudical writers held the general principle that the prohibitions of Leviticus xviii. extended to cases of affinity as well as to those of consanguinity, and the principle of parity of reasoning from the case of the man to the woman and *vice versa*, it will not weigh much with any man who forms his judgment either on grounds of direct Scripture or clear logical consequence, even though it should turn out that some of these writers are inconsistent with themselves. They even placed their salvation on the ground of their relation to Abraham according to the flesh; and from the very earthliness and self-righteousness of the grounds of their hope of salvation, as well as from their licentiousness of manners, they sought to justify themselves by taking their rule from the supposed conduct of Abraham and the conduct of other Old Testament worthies, rather than from the direct law of God, or the whole spirit and principles of his Word. They thus made the law and the Word of God void by their traditions, and are small authority to us.

The Talmudists flourished about the year 600 of the Christian era, and the Karaites about 750; and not more weight is to be attached to them, or their endless subtleties and distinctions, than to those of Romish casuists and scholastics. The writer rests no more on this part of the inquiry than that it makes of very little worth the assertions either of modern Jews, or of those who put them forth as authorities, to prove that from the beginning it was *lawful* according to God's Word for a man to marry his wife's sister. What they actually did, considering their character and history, is not much to the purpose.

A gentleman who, if we can judge from his own evidence, would have been willing enough to have come to an opposite opinion, has evidently been forced to the same conclusion on this head as ourselves.

The Rev. Robert Charles Jenkins, though holding that such marriages were lawful, seems nevertheless to have been compelled to give up any support to this opinion from the Jews. He gave evidence at great length before the Commissioners on the Law of Marriage; and in answer to question 1052—"Is there anything else you wish to add?" said—"Nothing that occurs to me. I have put on paper some observations on the passage in Leviticus, ch. xviii. ver. 18, which, if the Commissioners desire, I will hand in." [The paper was delivered in as follows]:—"Observations on the passage of Leviticus, ch. xviii. ver. 18, and on the Origin and History of the Prohibition alleged to be derived therefrom.

"The desire to reconcile this passage with the primitive law by which polygamy was prohibited, leads me to the adoption of the view, that it may relate to the marriage of a wife's sister during her lifetime, after giving a

writ of divorcement; which, by the laxity of the law of divorce (V. Tract. Talmud. Gittin, cap. ix.) was likely to have been a frequent case. It appears, however, that the traditional law of the Jews *did exclude the marriage of two sisters in succession*, but whether on the ground of this passage, or upon some more general law, does not clearly appear, (V. Tract. Talmud. Jefamoth, cap. i. s. 17.)” He then endeavours to show that the law itself did not warrant this opinion. But the strange thing of this gentleman’s evidence is, that, after intimating that his attention was called to the subject *by the request of Dr Lushington, M.P., that he should give evidence*, he shows himself so ignorant of the real ground of judgment with those who hold the opinion opposed to his own, that he makes the following statements:—

“1008. Are you of opinion that there is any prohibition in Scripture against such a marriage? I think there is none whatever.

“1009. You are now speaking of the Mosaic law? I am now speaking of the Mosaic law.

“1010. Will you state your reason for your view upon that particular point? The view of those who contend for the prohibition rests, *I think*, on the 18th verse of the 18th chapter of Leviticus, ‘Neither shalt thou take,’ &c.”

He then proceeds to refute this view as supported by this text. Well might this rev. gentleman insert the words, “*I think*,” for he betrays an ignorance of the subject altogether unpardonable in any one solemnly giving evidence on it. The view of those he opposes is not made to rest on Lev. xviii. 18 at all, but on very different passages altogether. Whether it was from this or some similar evidence Lord Denman was led into the same egregious mistake, I cannot say.

Though it might be delayed till we come to argue the question on its merits, I cannot help even now calling attention to the following points on this part of the subject.

It is universally admitted that there was a prohibition among the Jews *against marrying the sister of a wife*. Let this fact be pondered. The parties opposed to us admit and contend that they were *not* forbidden to marry more wives than one, if not sisters. Why then did they make a distinction? If there was nothing wrong *in itself*, why this prohibition? Because, they say, of the vexing of the first sister married. But what is there in the mere matter of first or second, that gives her humour a title to be held sacred, so as to be the subject of a divine law to shelter it, and all the alleged rights of the husband and the other sister to be counted as nothing, merely because the first might be vexed, without any ground in reason or morality? For, by the principles of our opponents, if it be merely another wife her husband takes, she had no right to be vexed. But is there any antecedent probability that two sisters will be more quarrelsome about the enjoyment of a common right or benefit than any two other women? Certainly they *ought* not to be so. But if there was nothing wrong according to the Mosaic law in a man having two or more wives at a time, and nothing wrong *IN ITSELF* in their being literal sisters, and they and the husband are pleased to risk the consequences, why infringe the liberty which, according to the Libertarians, God has given, and for which they contend so zealously, and which they allege no one has a right to take from them? It is a simple absurdity to say that because Leah and Rachel quarrelled, all other sisters would certainly quarrel, while all other women,

not sisters, would agree very well, or at least needed no law on the subject; and, at all events, though they might quarrel in thousands of instances, as undoubtedly they have done in such a case, yet *the vexing* is to be of no possible consequence in the latter case at all, though all and in all in that of an ill-humoured and selfish sister. But even this absurdity, though it were sustained as an argument, will not meet the case. It was universally admitted by the Jewish casuists (see Selden's "*De Jure Naturali et Gentium, Juxta Disciplinam Ebræorum*," lib. v. cap. 10) that a man was not permitted to marry the sister of his living wife, though the living wife had been lawfully divorced—*repudiata*—rejected, and thrust out. Why? There was no danger of quarrelling then. They might then be far enough asunder; and, at all events, they would not be under the same roof. The plain truth is, that there is always a *basis of wrong-doing running through the whole transaction of the marriage of two sisters, in any circumstances or at any time*, that even divorce did not permit, when the first wife had even been an adulteress; and what could make it right when she was dead without having done any wrong, cannot well be discovered; though perhaps the ingenuity of Libertarians may suggest something. And to help them out of a difficulty, since the first wife is apt to think she has a claim against a sister by the circumstance of being first, why not—since there is nothing wrong in itself, according to them, either in marrying two or more sisters, and as many wives as they pleased—why not marry these sisters at one and the same time, and put them on an equality, and put an end to all claims to precedence on the part of one and all of them?

Section III.—Opinions of the Christian Church.

Every one but moderately acquainted with the history of what is called the Primitive Church, knows how scanty are the materials even for determining what were their opinions, and how manifold and grievous were the forgeries, fabrications of writings attributed to the fathers, and the corruptions of the writings that were actually authoritative. On the present question, so far as the author has discovered, there is no charge, either of forgery or corruption, as affecting the little that remains on the subject. But an attempt is made to identify it with Popery, by the general proof that the elements of Popish corruption had crept into the church very early. That they had, there is not only no doubt, but very ample proof, both from the Epistles of Paul himself, and from the history of the first three centuries after Christ. But the way in which that is proved is, first, by ascertaining what their opinions were, and proving their contrariety to the written Word of God. Unless this can be done, it will serve our opponents very little in the eye of any intelligent man to make general allegations about the corruptions of these times. Such a mode of reasoning would overthrow, by a very short process, every article of Christian or religious belief; and, in fact, is the process followed by pure scepticism on the one hand, and by Jesuitism on the other. But our opponents are somewhat flexible and shift. If Popery and antiquity will not serve them in one way, they will serve them in another. And if neither can be of any avail, Henry VIII. of England will do the work as well. But to proceed. The evidence for the opinions held by the early church is found from three sources, viz., what have been called the Apostolical Constitutions,

the opinions of certain Councils, and the Canons of Basil. It is, of course, admitted that the Apostolic Canons have no title to the name of "Apostolic." All that can be said of them is, that they were of a date prior to the Council of Nice, which was held A.D. 325. The 19th canon is, "He who has married two sisters, or the daughter of a brother or sister (so the Scholia of Balsamon renders ἀδελφίδη), cannot be a clergyman." The Scholia adds, "The daughter of a brother or sister is called in the Greek ἀδελφίδη, and also ἀνεψία. Therefore, he who married two sisters, or an aunt, or the daughter of a brother or sister, the canon permits not to be a cleric, although a complete separation from the marriage should take place. Know, also, that not only he who did this, but he who contracted any other marriage forbidden either by consanguinity or affinity, shall not become a cleric, but rather punishment shall be inflicted on him." He then refers to the Canons of Basil for the penalties—not for the law. The Canons existed before the time of Basil. Basil lived in the beginning of the fourth century. In his 23rd canon, addressed to Amphiloehius, he says, "Concerning those who marry two sisters, or those who marry two brothers, a letter has been sent forth, a copy of which we have sent to thy piety. But he who hath married the wife of his brother shall not be admitted (to the communion) till he shall have separated from her." By the way, it may be remembered here, that they had not in those times fallen upon the ingenious distinction of the modern writers in this controversy, that when they spoke of wife, they did not mean widow. The letter referred to was originally written to one Diodorus, of whom little is known, except that Balsamon says he was a bishop of Tarsus. Diodorus had been asked by a man if he could marry the sister of his deceased wife, and had assured the man that it was not forbidden. Basil speaks of this man with amazement, as one who was not horrified at putting the question. He treats the letter shown to him as that of Diodorus as a forgery, and says he would have sent it to him for refutation, but that after it was shown him it was carried away. But, lest injury should be done by that spurious statement, he thinks it necessary that it should receive their double condemnation. He then enters fully on the subject. The man had pled Lev. xviii. 18—exactly as the advocates for such marriages do now. Basil replies, that if it only meant to exclude the marriage of two sisters who both are alive, because of contention, that where there is no contention, and would be none, it would then be lawful. He has recourse to the general principles in the chapter that, in his view, prohibit such marriages; which, he says, were prohibited by such custom as had the force of law, delivered down to them by holy men. He holds that the husband and wife were so much one, that the sister passed over into a kind of consanguinity—something like the principle of the ancient Karaites. He pronounces that such unions were no marriage; and the parties must be excluded from the communion of the church till they are separated. Basil concludes his letter thus—"Space forbids that I should say more, desirous as I am; but I pray that this our dissuasive may turn out stronger than the passions of that person, that this crime may not only be stayed in our region, but in whatever places it may have dared to enter." * This language plainly intimates that it was held to be a daring and presumptuous crime, and so rare as to be almost unknown.

* See "Canones, SS. Apost., Council. Gen. Sanct. Patr. Epist. Canonice, &c. Paris, 1620." Pp. 241, 1017.

The Council of Eliberis, held in 305, annexed (canon lxi.) the same penalty to marriages of this kind as to an aggravated case of repeated fornication, or of once falling into adultery—excluding from communion for five years; a penalty more severe than for what is known among us as antenuptial fornication. The penalties prescribed by the Canons of Basil were the same as for less aggravated cases of adultery. Canon lxxvii., with other things, excludes for seven years. Canon lxxviii. says—“Let the same form be observed in those also who marry two sisters, although at different times.” The lxxix. enjoins the same penalties in the case of a stepmother as in that of a sister—all expressive of abhorrence of crimes of incest by affinity as well as by consanguinity.

The second canon of the Council of Neo-Cæsarea, A.D. 315, is as follows—“If a woman marry two brothers, let her be excommunicated till death. But at death, for humanity’s sake, (*δια την φιλανθρωπιαν*) if she say that on being restored to health she will dissolve the marriage, she may be admitted to repentance. But if the woman die while such a marriage exists, or the man, admission to repentance to the survivor is difficult.”

Let it be observed, in regard to these canons, that they proceed on custom recognised as law. An attempt has been made to turn their force aside by affirming that the marriages in question were not so much crimes *prohibited*, as *errors* to which penance was assigned.* But Dr Pusey, in his published evidence, has very properly remarked—“The whole objection (Preface, p. xlvii.) is founded on a false view of these canons. They are not employed in laying down *what* is sin, but in annexing penalties to what was *acknowledged* to be sin. The Councils of Eliberis or Neo-Cæsarea, or the Canons of St Basil, did not first make these incests to be such. This, St Basil says, they received from their fathers. But when some persons ventured upon them, punishment was annexed to them, as well as to other notorious sins. Had the canons been a simple prohibition of the sin, we should have been told that these marriages were now for the first time prohibited. Now that it is assumed in the canon that it is a sin, and the punishment only is annexed to it, we are told that it is not so much mentioned among things prohibited, as among those errors for which penance is assigned. By the same rule, neither would murder, adultery, perjury, nor any other sin. The church has only spiritual punishments. But would it be thought no severity now, if a person were enjoined to place himself for six years among public penitents, with fornicators and adulterers, and only at the close admitted to communion?” In fact, they seem to have dealt with these crimes of incest on the same principle as that on which they dealt with what the advocates for these marriages seem now to account a very light thing indeed—viz., polygamy. Canon marked xc., in the Letter to Amphilochius, though following lxxix., says, that the fathers passed it by in silence as “incident to wild beasts and alien to human beings,” showing at least very clearly that, wherever it existed, or by whomsoever practised, it was a frightful excrescence on humanity.

The testimony of Augustine is very important as to the *principle* upon which the early church proceeded in their prohibitions. “In another work, supposed to have been written about A.D. 419, and so containing his maturest judgment, St Augustine speaks of the prohibitions in Lev. xviii. as *things without all doubt to be kept under the New Testament*.” He raises the question why the particular command (Lev. xviii. 19) is repeated

* See Evidence of Rev. R. C. Jenkins before the Royal Commission of 1847. No. 1017.

there, whereas the act forbidden had always been sufficiently prohibited before; and he says—"Is it, perhaps, lest what was already said above should be thought to be understood figuratively, that it is set down here also (chap. xviii.—the chapter containing the prohibited degrees), *where things of that sort are forbidden, as in the time of the New Testament also*, when the observation of the ancient shadows is done, *are certainly to be observed?*"—(Quæst. in Lev., qu. 64.) And in a work later (A.D. 427), consisting of extracts from holy Scripture for popular use, as to "those things which, whether as commanded or forbidden, or allowed, are so laid down in holy Scripture, that *now also—i.e., the time of the New Testament*—they belong to the leading of a holy life, and to morals."

The author does not deem it necessary for his present purpose to prosecute this particular point of the opinions of the early church any further. Those who wish to follow it out, will find the subject most learnedly and ably discussed, in all its bearings, in the evidence of Dr Pusey before her Majesty's Commission of Inquiry. It is given, with much more that is truly valuable on the subject, in his work entitled "Marriage with a Deceased Wife's Sister Prohibited by Holy Scripture, as understood by the Church for 1500 years," &c.—Oxford, 1849. He follows the subject out, in all its bearings, during the whole history of the Popish Church.

The following is the general principle of the Canon Law:—In the "*Corpus Juris Canonici*," affinity is defined to be, "The proximity of persons proceeding from '*coitu*,' wanting any blood relationship. This according to the Canons; but according to the laws it is proximity proceeding from marriage; and it is required, according to the laws, that the marriages be lawful and not forbidden, that affinity may be contracted." The Canons hold that it may be contracted by connections that are unlawful, whether by marriage or not. The Canon Law holds that "sister and brother are in the first degree of consanguinity, and the brother and husband of the sister are in the first degree of affinity." While, from the cases of the descendants of our first parents and of Noah, the Canon Law does not hold such relations to be forbidden by divine abstract natural right, yet it holds that they were prohibited by divine positive right; and at length positive Canon Law extended the prohibition "even to the seventh degree."*

The writer would remark, for the sake of those not much versant in this controversy, that they must not imagine they have got any very strong reason for disregarding this testimony, when writers on the opposite side get quit of the whole by the words "*Canon Law*," or by the sneering allegation that these same early Christians and canonists disapproved of the marriage of first cousins, and established prohibitions which are universally repudiated by Protestants. That they did so, does not disprove the historical fact, which is all we are now attempting to establish. Neither would it invalidate the substantial soundness of their arguments—for they did argue, and that too from the law of nature and the Word of God, and made a manifest distinction between what was obligatory on these grounds, and on the ground of ecclesiastical authority merely. It would lead us beyond all just bounds to enter into the discussion of the several grounds on which the Romish canonists decided the marriages in question to be unlawful. The almost universal judgment seems to have been that they were prohibited by divine law—that that law is found in Leviticus xviii.,

* See "*Corpus Juris Canonici*. Lipsiæ, 1839." Pars. ii., cc. 1238-39.

and that the Pope could not dispense with it.* It was on this ground that Henry VIII. was encouraged to get the dispensation of a previous Pope declared to be contrary to the law, as it really was, whatever was the character of the man who now took advantage of it, when it would serve his passions. Those who wish to see an admirable discussion of this point, and cannot wade through the voluminous intricacies of the Canonists, may consult Dr Pusey's evidence on the subject. Or, if they have Sanchez at hand, they will find a full statement of the argument, and an enumeration of authorities at great length. The author has examined it, but has neither space to give it, nor courage to labour through its translation for the reader. "They all go," says Dr Pusey, "upon that ground that Leviticus xviii. was the divine law. You will find also that it is said that Leviticus xviii. applies to twelve cases, and among these is 'the wife's sister.'" There were some, though comparatively few, who had no doubt as to the prohibition and the propriety of it, but doubted as to the point whether the Levitical law was still binding, as being in *its nature moral*. But the *almost* universal language in regard to Leviticus xviii. was "The DIVINE LAW."

It may not be useless to remark in a word, that the Romish Canonists made a very clear distinction between the marriages forbidden in Leviticus, of which a wife's sister was one, and those which are prohibited by Rome on the ground of spiritual affinity—viz., that the former were forbidden by divine, natural, or positive law, and the latter only by ecclesiastical law.† It is at best but a weak, as well as unfair invention, to make the canons, or laws of the church, passed before there was a Pope recognised by any section of the church, responsible for the decrees—unscriptural, tyrannical, enslaving, or persecuting, as the case might be—passed by Popes and Councils 800 or 1000 years thereafter. However it may serve a turn in a difficulty, or enable a writer hard pushed to evade an argument, it will no more destroy the authority of any doctrine or precept, still less the truth of any historical fact, to finish off the question by a flourish about Popery, or even Henry VIII., than it will destroy the truth of the doctrine of the Trinity, or the authority of the first and second commandments, that the early church had some curious fancies about them, and the Church of Rome has added to them the worship of saints and images and the Virgin Mary. After the very ample proof which Dr Pusey had brought forth with great learning and industry, he was entitled to make the following remarks on portions of the evidence given before her Majesty's Commissioners on the subject:—"1. Of some of the evidence it is only necessary to state that such was given. Without any disrespect to individuals, one cannot but regret that they should, on such occasions, have given an opinion upon subjects which it has not fallen within their line of duty to investigate. It is no blame to a person not to know what was the judgment of the early church upon any point, if he be not called upon to know it; but when a very grave moral question is to be decided, it is a moral wrong to give any unconsidered opinion, which may in any

* It will afterwards appear that the Council of Trent determined that the Pope could dispense even in divine law.

† Sanchez, after stating the question, says, "Hinc deducitur primo, cognationem hanc spirituales ex baptismo et confirmatione ortam, non esse ex jure divino naturali, aut ex divino positivo, sed ex solo ecclesiastico. Quoad affirmat D. Thom. ab omnibus receptus," &c.—See Sanchez Disput. 54, sec. 2, "De Impedimento Cognationis Spiritualis." I suspect they are not much versant with the writings of the Canonists who get quit of them by a flourish about the "tedious frippery of the Canon Law." Whatever were their faults, negligent rashness was not one of them.

way influence it. The effect of the little which is said upon this subject is but to obscure the truth. For it is natural to suppose that her Majesty's Commissioners, in making their inquiries, selected those persons whom they judged best qualified to give information on the subjects on which they inquired of them; so that what is stated in answer, apart from any intrinsic weight of its own, comes in a manner recommended by them. It is then a serious evil when one witness, who is not likely from the tone of his theology to have studied Christian antiquity, is asked, 'If those marriages, in your opinion, are not prohibited in Scripture, are you at all aware that they were prohibited by any authority in the early Christian church? I am not aware that there was any prohibition of the kind.* For it is not every one who knows that such marriages were so prohibited, although this witness is 'not aware of it.'

"2. Again, another witness admits unhesitatingly this fact, of which the other 'was not aware,' yet states his belief that the early church was mistaken, as resting upon the untrue interpretation of Lev. xviii. 18: 'Do you apprehend that at an early period of Christianity a construction was put by the church upon any passages of Scripture, to the effect that such marriages ought not to be allowed? Unquestionably. I believe that the general construction of the church and of commentators has been in opposition to such marriages, founded upon what I humbly believe to be a mistaken view of the passage in the 18th of Leviticus and the 18th verse.'† Yet it may be stated confidently that *no one father does rest his objection upon that verse*. The passage upon which they rest is that containing the general principle, verse 6, 'None of you shall approach to any one that is near of kin to him, to uncover their nakedness,' under which this particular case falls, and the parallel case of the marriage with the brother's widow."—Pusey, "Evidence of the Law of Marriage," Preface, pp. xl., xli.

It is not necessary to detain the reader with more than a single remark respecting the opinion of the Greek church, and other Eastern branches of the church, viz., That they have universally given the same judgment on the question at issue. Ample proof will be found in the paper of the Rev. Mr Palmer, found in his evidence before the Royal Commission, and given also in Dr Pusey's volume. That these gentlemen have unhappily followed a course in other matters which no true Protestant can do otherwise than condemn, will not, in the view of any, but those who will lay hold of anything to gain their end, invalidate the clear proofs they may adduce of certain facts in the history of the church.‡

Section IV.—Relative Testimony of Human Legislation in the Early Ages of Christianity.

Perhaps it will be most convenient to dispose of this part of the subject, in so far as it relates to the first ages of Christianity, before adverting to the testimony of the true and reformed church in succeeding times.

It is remarkable that almost as soon as it was possible to have human legislation in harmony with that of the Christian church, you have such marriages forbidden. This is pretty clear proof of what was the prevailing opinion of Christians at that time. You have these prohibitive laws in

* Dr Cox's Evidence. No. 848. † Evidence of Rev. John Hatchard. No. 516.

‡ I most cordially recommend Dr Pusey's volume. It is evidence worthy of the subject. The great mass of the evidence is certainly worthy of the way in which it was got up.

the Codex Theodosianus. It may be useful, for the sake of the unlearned reader, to say that this was a collection by the Emperor Theodosius of all the laws of the Christian Emperors. The edition before us is that of Lyons, 1665, in four folio volumes, with the commentaries of James Godfrey, whom the title calls "a man of senatorian rank and an illustrious jurist of this age." In III. Cod. Tit. xii., there is first a law forbidding marriage with a niece, the daughter either of a brother or sister, as an abomination, and making its violation a capital crime. It is addressed to the governors of Phœnicia and the adjacent countries. It bears date 339. The law on this point among the Romans varied. Godfrey tells us that by very ancient law (*antiquissimo jure*), the marriage of the daughter both of a brother and sister was forbidden; but that afterwards a distinction was made between the brother's and the sister's daughter,—that it was allowed to the former to marry her uncle by the father's side, but not her uncle by the mother's,—that Claudius, desirous of marrying Agrippina, his niece, procured an alteration of the law in his favour. In this he had great difficulty, and it required much management, and the aid of some subservient statesmen and imperial gold, to bring it about. The narrative is given by Tacitus—(see "Annal." lib. xii.) Godfrey refers also to Suetonius, in his "Life of Claudius," chap. 26; Seneca, in his "Octavia," act i.; and the old scholiast, Juvenal. The words of Tacitus are remarkable—that even after all had been prepared and the marriage agreed on, "they dared not to celebrate the rites of marriage, there being no example of the daughter of a brother led to the house of her uncle. And moreover if the incest were despised, they were afraid it might turn out to the public damage." The sequel proved that their fears were well founded. The whole scene, as narrated by Tacitus, is a curious display of the time-serving profligacy of his senatorial agents, and the base subservency of an immoral rabble. There was a Vitellius to talk over the one, and to corrupt the other. Parallels are not wanting in the present day.

Those who desire to see more on the Roman law may consult the Institutes of Justinian, "De Nuptiis, x., Titulus, *Qui possunt nuptias Contrahere*," in which they will find the doctrine of affinity maintained among heathen Romans, as it has been among Jews and Christians, Roman Catholics and Protestants. The example of Claudius was followed by Domitian. In a short time after, the ancient law was restored. Various changes occurred, as might be supposed, when the law stood in the way of the lusts of the Roman Emperors. There is no law extant by Constantine the Great. The ancient law was restored by his son, who attached capital punishment to its incestuous violation. The law of heathen Rome, then, was certainly more stringent than that of some modern legislators, who seem in this respect to have outstripped in license not only the law of Moses, but even of heathen Rome.

There is next "the law of Constantius concerning the unlawful marriage with the wife of a brother and the sister of a wife." The law was passed about the year 355. It is as follows:—"Although the ancients believed that it was allowable, the marriage of a brother being dissolved, that his brother should marry his wife (*uxorem*); and that it was also lawful, after the decease of a woman (*mulieris*), to contract marriage with the sister of the same, let all (*universi*) abstain from marriages of this sort, nor suppose that the children procreated of such unions can be legitimate; for it is proper that those who may be thus born be spurious."

Godfrey, in his notes, understands by the word "ancients," Jews—referring to the permission of the leviral law, in Deut. xxv. 5, and Ruth iv. 4, and to the Egyptians, as well as ancient Romans. Godfrey has the following commentary—"The same woman is forbidden to marry two brothers in succession, and the same man two sisters; or, (which is the same thing) a brother to marry the wife of his brother, and the same to marry the sister of his wife, by the Emperor Constantius, by his law, A.D. 355, equally as by the law of Theod. the Great, *Fratris 5 cod. eod. tit. De Incestis Nuptiis*; by Arcadius, l. 3, h. 1; by Theodosius the Younger, l. ult. h. t.; by Zeno, l. pen. cod. eod.; and by Anastasius, l. ult. cod. eod.; and thus there are extant altogether six constitutions concerning the matter and its prohibitions." He then gives a profusion of facts and illustrations and proofs, and refers to the Christian canons already quoted.

We have next the laws of Arcadius and Honorius declaring the penalties of incestuous marriages, with an enumeration of the degrees embraced, and among others the marriage of a man with the sister of his wife. It bears date 396. And farther under the same title xii., we have the law of Theodosius the Younger, bearing date 415, declaring the children illegitimate, and excluding them from succession to their father's inheritance. These kinds of marriages, it appears by the Cod. Justinianus, were forbidden by Valentinian, in the year 388. It is remarkable (and remarkable only because *partes* have rested much on the circumstance that the Levitical law does not use the word "widow" in prohibiting a man from marrying his brother's wife), that in all these canons, and laws, and comments, the phrase "brother's widow" is never once used in relation to the wife of the husband whether dead or alive; but *always*, without an exception, the phrase is brother's wife,—"*uzor*," "*uzorem*,"—a fact which stamps absurdity on the ingenious shifts of some modern critics on the subject. This, says Bush, was the common usage of the Hebrews, Greeks, and Romans, and such is that of the French, Germans, the Spanish, and the Italians, as well as English. In none of the versions of the Scriptures in these languages is the word widow used in such cases.*

After this historical proof, one may well be surprised at the ignorant asseverations, so industriously circulated by writers on the other side, that the prohibitions of such marriages owe their origin to the Pope of Rome and to Henry VIII. of England, though not at the unscrupulous use made of them by parties involved in difficulties by their own contempt, if not of the laws of God, certainly of the laws of their country.

It is unnecessary to attempt to trace human legislation down through the period of the dark ages till the time of the Reformation. Of course it was based throughout European the Canon Law; and was, and is still, therefore, the law in Popish countries.† The weight that is due to this fact must be otherwise determined.

Section V.—Opinions of the Waldensian Church.

Before adducing the testimony of the Churches of the Reformation, there is one important witness which must not be passed over, viz., the Church of the

* Bush's Notes on Leviticus. I had previously verified for myself the correctness of Bush's statement.

† I do not hold the power given to the supreme authority, civil or ecclesiastical, to dispen-
 pense, to be a renouncement of the law, whatever may be the effect of such a power.

Waldenses. The following is its general doctrine found in the very curious documentary "History of the Churches of the Valleys of Piémont, by L. Morland, Esq., Commissioner Extraordinary for the affairs of the said Valleys," of Oliver Cromwell. In an "Ancient Confession of Faith of the Waldenses, copied out of certain Manuscript Copies, bearing date Anno Dom. 1120, that is to say, near 400 years before the time of Calvin or Luther," there is the general doctrine of the sole authority of the Canonical Scriptures, the rejection of Apocrypha and traditions, and of the inventions of Antichrist, and the denial of marriage as a sacrament. "Article 13. We acknowledge no other sacrament but baptism and the Lord's supper." In another, bearing date 1532, they pronounce the forbidding of marriage to be "a diabolical doctrine." In another, presented by the Waldenses to Ladislaus, king of Bohemia, in the year 1508, they pronounce against the Romish doctrine of celibacy. In a confession published in 1655, they say, "And for a more ample declaration of our faith, we do here reiterate the same protestation which we caused to be printed in the year 1603, that is to say, that we do agree in sound doctrine with all the Reformed Churches of France, Great Britain, the Low Countries, Germany, Switzerland, Bohemia, Poland, Hungary, and others, as it is represented by them in their Confessions; also we receive the Confession of Augsburg, and as it was published by the author, promising to persevere constantly therein, with the help of God, both in life and death, and being ready to subscribe to that eternal truth of God, with our own blood, *even as our ancestors have done from the days of the apostles*, and especially in these latter ages." Such is the general language of their Confessions, indicating this, at least, that Popery had very little to say in the formation of their views.

In "The Ancient Discipline" of these churches, "extracted out of divers authentic Manuscripts, written in their own language, several hundreds of years before either Calvin or Luther," article viii. is as follows, and I give it both in the Old Provençal and English language :—

"OF MARRIAGE."

"Le mariage se deo far second li graliqua Dio a permes non second li graliqua el a deffend : ma la no se deo gis far de conscientia d'aquilli del Papa, ja cia go que no ly aya gis donna d'or o d'argent per aver dispensation. Car go que Dio non a deffendu se po far sen luy."

"Marriage ought to be performed according to the rules prescribed by God, and not within those degrees which he hath forbidden. And there need no scruple of conscience be made concerning what the Pope hath forbidden, although we neither give him gold or silver for a dispensation; for that which God hath not forbidden may very well be done without his permission" (literally, without him.)

It is clear, then, that whatever was the opinion of these churches it was not derived from the Pope, whom they denounced and formally proved to be Antichrist, four hundred years before the time of Calvin, and of which churches it may be said they were a people "terrible," as they were hateful to the Popes "from their beginning hitherto." What they believed, they believed on the authority of God's Word; and there is not only no

evidence that they held views on the subject different from the Reformed Churches, but there is evidence to the reverse.

Through the kindness of the Rev. Dr Stewart of Leghorn, I have been favoured with the following statement of the case in the Waldensian Church at the present time, conveyed in a note, dated September 30, 1853, in answer to one from me, dated September 9, 1853, requesting his good offices to procure me the requisite information. It is from the Rev. Dr Revel, present moderator of the Waldensian Church :—

“As to the *principles* maintained by our church respecting marriages between brothers and sisters-in-law, they are those which we find in the holy Scriptures, on marriages between relations. Our Ecclesiastical Discipline, reviewed in 1839, says :—*‘Marriages between brothers-in-law and sisters-in-law, uncles and nieces, aunts and nephews, and between relations at one degree more near, are forbidden.’* I find this same prohibition in the Acts of the Synods of 1833, 1828, 1801, and 1798. Our civil law does not permit alliances between a brother-in-law and a sister-in-law, that is to say, between a widower and the sister of the deceased wife, *no more than between a widow and the brother of the dead husband*. It has sometimes happened that the king by a *special decree* has authorised such a union, and pastors have, *contrary to our discipline*, blessed it” (as unfaithful men have done in America when the civil law favours them.) “Nevertheless, since the constitution, the king’s ministers reject on principle demands of this nature. It seems, in certain given cases, that it might be *convenient* and very desirable that the sister of the deceased mother who has left *many* little children, might come to charge herself with the care of bringing them up—nevertheless, I doubt that in practice the effects would be as good as some imagine them. These unions appear prohibited by Leviticus xviii. 18, xx. 21, and in point of public and social morality, persons most competent to judge see in them very grave inconveniences, so that *we are very glad* that the civil code does not admit of them.

(Signed) “J. P. REVEL, *Moderator*.”*

The discerning reader will perceive the importance of this statement by M. Revel, especially when viewed in connection with the preceding extracts from the ancient Vaudois creeds :—

1. They repudiated the authority of the Pope on the subject of marriage.
2. They rest their doctrine on the authority of the holy Scripture.

* The following is the original French :—“Quant aux principes suivés par notre Eglise touchant les mariages entre beaux frères et belles sœurs, ils sont ceux que nous trouverons dans l’Ecriture sainte sur les mariages entre parens. Notre Discipline Ecclesiastique revue en 1839 dit : *Les mariages entre beaux frères et belles sœurs, oncles et nieces, tantes et neveux, et entre parens a un degre plus rapproché sont défendus*. Je trouve cette même défense consignée dans les Actes des Synodes de 1833, 1828, 1801, et 1798. Notre loi civile ne permet pas les alliances entre beau frère et belle sœur, c’est à dire entre un veuf et la sœur de la femme décédée, comme non plus entre une veuve et le frère du mari mort. Il est arrivé quelque fois que le roi par un decret special a autorisé une telle union, et des pasteurs l’ont benie contrairement à notre discipline. Cependant depuis la constitution, les ministres du roi repoussent par principe les demandes de cette nature. Il semble, dans certains cas donnés qu’il serait convenable et fort à désirer que la sœur de la mère défunte qui a laissé plusieurs petits enfans, vint se charger du soin de les élever ; néanmoins je doute que dans la pratique les effets fussent aussi bons qu’on se les imagine. Ces unions paraissent interdites par Lev. xviii. 18, xx. 21, et au point de vue de la morale publique et sociale, des personnes tres competentes y voient de graves inconveniens, de sorte que nous sommes bien aise que le code civil ne les admette point.

(Signed) “J. P. REVEL, *Moderator*.”

3. They assert that they trace their practice from the days of the apostles.

4. They *never* submitted to Rome.

5. They appear to have renewed their decree on this subject in their Acts of Synod in 1798 and 1801, evidently when French armies and French principles invaded them, and at succeeding times, when endangered by modern and lax notions.

6. This testimony ought to put an end for ever to the rash assertion, that the views held in the Churches of England and Scotland, and other Reformed countries, were traceable to Popery, either directly or indirectly; and they cast ridicule on the Henry VIII. origin of these views.

7. This is a proof, among many others, that the opinion of churches on the special relations prohibited, is to be found almost universally in their codes of discipline and synodical acts, rather than in their creeds, which contain only general principles, but do not define the specialities of their application. It is either ignorance of, or inattention to this fact that has made Dr Eadie say, as if it were of any weight in the question,—“Out of fifteen Protestant Confessions, that of Westminster is the only one which formally enacts forbidden degrees.” The Westminster does not “formally enact forbidden degrees.” It only declares the general principle which involves them and determines them.

Perhaps a more miserable instance of ignorance, or dishonesty, among the multitude of instances which controversy unhappily furnishes, is hardly to be found than that which traces the doctrine of the Reformed Churches, on the question under consideration, to Popery.

Section VI.—Doctrine of the Reformed.

What then was the doctrine of the Reformed on this point?

Before formally answering this question, it may not be improper to notice the prejudice that has been widely diffused, and studiously nursed, by parties whose interest it is to discredit their testimony when it happens to cross their path—viz., that coming out of the darkness of Popery, they still retained much of the darkness and bigotry of the Man of Sin. That there might be individuals of whom this was true, we have no disposition to debate. But that it characterised either their leading men, or the Confessions of the Reformed Church, we deny. Whatever were their views, they rigidly professed to adhere closely to the written Word. This was their watchword. They were more in danger of rejecting, than of continuing to hold a doctrine, because it was held by the Popish Church. In fact, had they not held closely by the Bible, the long period of tyranny and persecution under which the church had groaned, and which they felt had entered into the very soul, would have driven them, on the recovery of their freedom, as it always does in similar circumstances, into every kind of extravagance and excess. Had many of our modern advocates for freedom in the article of marriage lived at that period, the probability is, if we may judge from their arguments in support of polygamy, that they would have been found among the Anabaptists of Munster, advocating and indulging in every degree of sensual license, instead of limiting themselves, as the Reformers so rigorously did, by the question, What saith the Scripture? Moreover, he is very ignorant of their history indeed who imagines that the question was answered either in haste or in ignorance.

The direct evidence as to the doctrine of the Reformed Church is not so abundant and accessible as on many other points, for the simple reason that it was not so much an article of their Confessions of Faith as of their Codes and Practice of Discipline. There is enough, however, to satisfy us on the point. They proceeded on the general principle that the prohibitions in Leviticus were binding on Christians—that these prohibitions involved degrees not expressed, and were determined on the principle of parity of reasoning. This statement refers to Luther, Calvin, Beza, and others. Mr Badeley, in his speech in a case before the Court of Queen's Bench, dated Jan. 15, 1847, says—"And, my lords, in 'Boëhmer Jus Ecclesiasticum Protestantium,' a valuable book, showing the views of the Canon Law as adopted by Protestant nations on the continent, vol. iv. p. 198, it is said (giving his conclusions generally), 'I thus think that the marriages referred to in Leviticus xviii. were not only prohibited as to persons there expressly named, but also as to those who are contained under those prohibited by the same respect and reason, and that evident and clear.'" Mr Badeley quotes another important treatise on the law on the Continent, "Broüwer De Jure Connubiorum," p. 507, to the same effect. That they decided on this principle is undoubted. But this principle rules the question of marriage with the sister of a deceased wife by as necessary a consequence as that, in a moral point of view, a woman and a man are one and the same. This accordingly is what we mean in this case by parity of reasoning, and not a case of crime by construction at all, as some have attempted to represent this argument.

The opinions of Calvin and Beza may be reached in another way. In one of those productions circulated by the agitators in this country for a change of the law, the writer is very eager to get quit of the authority of the Westminster Confession of Faith; and he tells us that he has a French Bible, published by the founders of the French Protestant Church, and that in a reference to Lev. xviii. 16, 18, the word "vivante" (living) is introduced before the word "wife;" and then adds, "The founders of the French Church agree with the Westminster Assembly, that *there are* degrees of affinity as well as of consanguinity prohibited; but they hold that the *prohibition as to affinity* was in force only while the first husband or first wife lived." He then says, it is probable that the Westminster Assembly adopted the views of the French Church, because certain *Scotchmen*—Cameron, Boyd, and Welsh—had been professors of divinity and ministers in France! But though the members of the Westminster Assembly had been all Scotchmen, instead of being, as they were, all Englishmen, assisted by certain *five* Scotchmen *who were not members of it at all*, it would not have mended the matter; because the French Church held no such doctrine as is here, with rashness as culpable as the ignorance is complete, attributed to it. Where this man has got his second-hand information I know not; but, small as is the occasion, I have taken the trouble to go over the whole of Quick's "Synodicon," and find the doctrine of the Reformed Church of France to have been neither lax nor doubtful on the subject. It is found, not in their Confession of Faith, but in their "Discipline," which was held to be a masterpiece by their most judicious divines, in Quick's time, whose preface is dated 1691. It was adopted in their first National Synod, held at Paris in 1559, one year before Protestantism was declared to be the established religion of Scotland. *It was revised by twenty-three succeeding National Synods.* The ninth canon of the thirteenth chapter is as follows:—"It is not lawful for any man to

marry the sister of his deceased wife ; for such marriages are prohibited, not only by the laws of the land (France), but by the Word of God. And although by the law of *Moses* it was ordained that, when the brother died without children, his brother should raise up seed unto him, yet that law, enacted for the children of Israel, was temporary, relating only to the preservation of the tribes of that people. But the marriage of the sister of a betrothed" (engaged to be married) "and deceased wife is of another nature, because that alliance was not contracted by a commixture of blood ; therefore such a marriage may be admitted and approved. Yet, notwithstanding, all possible care shall be taken that neither the civil magistrate nor weak Christians be offended." The same principle is affirmed at the Synods of Poitiers the following year, and of Lyons, of which Beza was a member, in 1563. They had intimate intercourse with Calvin, who met at Geneva with the brethren "come from the Synod of Lyons." In chap. x. of the Synod of Vertueil, I find the following heading:—"Orders and *Decrees concerning Marriage*, made by the authority of the National Synod of Vertueil, held in the year 1567, but drawn up at the desire of the fathers in this Synod by the R. Mr Calvin, minister of God's holy Word, pastor and professor in the Church and University of Geneva." Under the ninth decree, it is queried, "What are those cases of affinity which hinder marriage? Answer V.—Let no man marry his brother's widow, nor any woman him who was her sister's husband."* Calvin and Beza were at the framing of these canons, therefore ; and how Calvin is quoted on the other side, I am at a loss to comprehend. The Discipline was read over and revised at every Synod. Various special cases were decided, and always on the doctrine of the canon now quoted. In one of these they affirm that though they do not pronounce it forbidden by the Word of God, if the magistrate allow it, yet, "civility and decency" were opposed to a man's marrying the sister of the widow of his own deceased brother, which, it will be perceived, is a much stronger case than his marrying the sister of his own deceased wife. The 29th Synod, or Synod of Loudon, held in the year 1659, twelve years after the Westminster Confession was received by the Church of Scotland, and in the spirit of a series of decisions given during one hundred years, has the following remarkable decision (Quick's "Synodicon," vol. ii., p. 528) :—"Chap. vii. On reading the Discipline—12. The deputies of the province of *Xaintonge*, demanding what course they might take with those who had espoused the niece or the great-grand-niece of their deceased wife, and yet demanded to be received into communion at the Lord's table: this Assembly adviseth, that they direct and govern themselves in this affair by the eleventh of the thirteenth chapter of our Discipline, and the decrees of the national Synods of Vitre, and of the second and third of Charenton, who have declared such marriages to be incestuous ;" and it goes on to forbid pastors to solemnise such marriages, or to admit the parties to "partake of the pledges and tokens of the remission of their sins as long as they cohabit together." And yet, in the face of all this, the man to whom I have referred has the impertinence to dole out his small affirmations, as reasons for solemnly calling on the Free Church of Scotland to repent of the sin of pronouncing incestuous what the Church Primitive, the Church Popish, and the Church Reformed pronounce incestuous on the authority of the law of God.

* The judgment of Calvin will be given expressly on Lev. xviii. 18.

The Lutheran divines of Germany, in reply to the inquiry made by Henry VIII., said—"It is manifest and cannot be denied, that the law of Lev. xviii. prohibits a marriage with a sister-in-law. This is to be considered as a DIVINE, a NATURAL, and a MORAL law, against which no other law may be enacted or established. Agreeably to this, the *whole church has always retained this law, and judged such marriages INCESTUOUS*. Agreeably to this, also, the decrees of synods, the celebrated opinions of the most holy fathers, and even civil laws, prohibit such marriages, and pronounce them *incestuous*. Wherefore we also judge that this law is to be preserved in all the churches as a DIVINE, a NATURAL, and a MORAL LAW; nor will we dispense with, or permit in our churches, that such marriages shall be contracted; and this doctrine we can, and as God shall enable us, we will resolutely defend."*

On the opinion of the Dutch Reformed Church, I beg to quote the following passage from the valuable little work of Dr Janeway, of America, from which the preceding reply to Henry is extracted :—

"The General Synod of the Reformed Dutch Church, at their last session, having received the reports of their Classes, departed from what had heretofore been the uniform practice of their church, and the Church of Holland, from which they were descended, by resolving, 'that all resolutions which may have been passed by the General Synod, forbidding a man to marry his deceased wife's sister, be and hereby are rescinded.'—(See their minutes for 1843, p. 221.)

"In the year 1816, the Venerable Dr John H. Livingston, Professor of Theology in the seminary of that church, prepared and published a dissertation on this question, at the request of the General Synod. It is able and learned.

"As early as 1580, Holland, the doctor shows, declared in an ordinance, 'That no persons related in blood, or by affinity, within the forbidden degrees, shall be permitted to cohabit or be married, under penalty of being declared infamous, and subjected to corporal punishment and heavy fines, and if they persisted in their crime, to banishment.' In another ordinance, the forbidden degrees are enumerated; and it is declared, 'That no man may marry the widow of his deceased brother, nor may any WOMAN MARRY THE HUSBAND OF HER DECEASED SISTER.'—Pp. 49, 50.

"And to prove what construction is put on Levit. xviii. 16, by the Reformed Dutch Church, the doctor quotes from the marginal notes of the translators,† appointed by the *National Synod of Dortrecht*, held in 1618 and 1619, the following words :—'From this law it necessarily follows, that a woman who has been married with one brother, may not, after his death, marry with another brother; and upon the same principle, a man who has been married to one sister, may not, after her death, marry the other sister.' He quotes also their note on verse 18, which is as follows :—'It consequently can by no means from this be concluded, that the husband, *after the death* of his wife, may marry her sister.'—Pp. 162, 163. In the conclusion of his dissertation, this venerable and profoundly-learned professor, being the brightest ornament of his church, says, 'The REFORMED CHURCH IN HOLLAND has established by her canons,

* Quoted from Dr Livingston's Dissertation, pp. 157, 158, by Janeway on "Unlawful Marriage," pp. 31, 32.

† The reader will afterwards find an interesting document proving how much the Synod of Dort both admired and profited by the labours of the translators of our English version.

“that no man may marry his sister-in-law, and no woman may marry her brother-in-law,” and has never deviated from this rule. The Reformed Dutch Church in America, which is the same with the Church in Holland, has adopted the same canons, corresponds with that church, and is bound by the most sacred obligations to transmit unimpaired to posterity the precious treasure with which she is entrusted. There can, THEREFORE, be no cause for suspense, no motive for hesitation; but, on the contrary, every consideration suggested by faithfulness to God and attachment to his church, renders it an imperious duty to avoid even the appearance of SCHISM, and strictly to *abide* by the *established canons*.”—(Janeway’s Introduction, pp. 10–13.)

Dr Janeway then gives a decision of the Particular Synod of this church in 1788, declaring such marriages to be contrary to the Word of God—of the General Synod in 1797, affirming this judgment—of the General Synod in 1815 delaying the decision of a case; and the following year, on the vote being taken for altering the previous resolution, it was *fifteen* yeas, and *forty-one* nays. “Whereupon it was resolved, *nemine contradicente*, That it is inexpedient to make any alteration or modification of the decision of the church on the subject of a man’s marrying his deceased wife’s sister.” In 1842, the resolution already quoted was adopted. All this is proof of what was the universal doctrine of the Dutch Church, till very recently, when the American portion had fallen away from the faith of their fathers.

The opinion of the English Reformers accorded with that of the Continental. Mr Badeley quotes the following letter of Bishop Jewell, which is found in the Appendix to Strype’s Life of Archbishop Parker, vol. iii. of Oxford ed., p. 55:—“Yet will you say, although this manner of reason be weak, and the words make little for you, thus far the reason is good enough, for these words make not against you; which thing, notwithstanding I might grant, yet will not this reason follow of the other side;—there are no express words in the Levitical law whereby I am forbidden to marry my wife’s sister; *ergo*, by the Levitical law such marriage is to be accounted lawful. For notwithstanding the statutes in that case make relation unto the eighteenth chapter of Leviticus, as unto a place wherein the degrees of consanguinity and affinity are touched most at large, yet you must remember that certain degrees are there left out untouched, within which, nevertheless, it was never thought lawful for a man to marry. For example, there is nothing provided there by express words, but that a man may marry his grandmother, or his grandfather’s second wife, or the wife of his uncle by the mother’s side. No, nor is there any express prohibition in all this chapter but that a man may marry his own daughter. Yet will no man say, that any of these degrees may join together in lawful marriage; wherefore we must needs think that God in that chapter has especially and namely forbidden certain degrees, not as leaving all marriages lawful which he had not there expressly forbidden; but that thereby, as by infallible precepts, we might be able to rule the rest; as when God saith, no man shall marry his mother, we understand that under the name mother is contained both the grandmother, and the grandfather’s wife, and that such marriage is forbidden. And when God commands that no man shall marry the wife of his uncle by his father’s side, we doubt not but that in the same is included the wife of the uncle by the mother’s side. *Thus you see God himself would have us expound one degree by another.*”

After the historical proof already adduced, one is at a loss to account, on any supposition of actual acquaintance with the facts, for the following statement of Dr Eadie, on this subject :—" I profess no anxiety to see Mr Wortley's bill (for a change of the present law of Britain on the subject) passed into a law. But the law he seeks to amend is quite another thing. *It had its origin in the ferocious sensuality of Henry VIII., and the dissolution of his marriage with his first wife, who had been previously wedded to his brother.*" This statement is followed by the usual jeers at the Canonists, and their Popish additions of first-cousins and god-children, and the like, which, of course, if good for discrediting the prohibitions of marriage with the sister of a deceased wife, because *they* held such marriages prohibited, are equally good for discrediting prohibitions of the marriages of father and daughter, sister and brother, or any conceivable incestuous abominations. But such a mode of arguing is not worthy of so grave a subject. And as to the historical accuracy of the above assertion, with regard to the origin of the law of England, and Henry's influence in introducing it, any one has only to consult Hume's History, to see that, whether Henry's scruples from first to last were those of conscience or of passion, the whole previous law of Europe settled the point, that the dispensation granted by Pope Julius the Second to Henry, to marry his brother's widow, was contrary to the universal law of Europe—and the decision of the universities in his favour were honest decisions, whatever were his character or wishes in the transaction. The following is Hume's account :—

He says, had the question of Henry's marriage with Catherine been examined by the "*principles of sound philosophy*, exempt from superstition, it seemed not liable to much difficulty." After adducing reasons "*founded on the principles of philosophy*," which are more flexible than those of Scripture, and suit those who hold his views somewhat better, he adds, "But, in opposition to these reasons, and many more which might be collected, *Henry had custom and precedent on his side* ; the principles by which men are almost wholly governed in their actions and opinions. The marrying of a brother's widow *was so unusual, that no other instance of it could be found in any history or record of any Christian nation* ; and, though the Popes were accustomed to dispense with more essential precepts of morality, and even permitted marriages within other prohibited degrees, such as those of uncle and niece, the imaginations of men were not yet reconciled to this particular exercise of his authority. Several (ten) universities of Europe, *therefore, without hesitation, as well as without interest or reward*, gave verdict in the King's favour ; not only those of France—Paris, Orleans, Bourges, Toulouse, Angiers—which may be supposed to lie under the influence of their prince, ally to Henry, but also those of Italy—Venice, Ferrara, Padua, even Bologna itself, though under the immediate jurisdiction of Clement. Oxford alone, and Cambridge, made some difficulty ; because these universities, alarmed at the progress of Lutheranism, and dreading a defection from the Holy See, scrupled to give their sanction to measures whose consequences, they feared, would prove fatal to the ancient religion. Their opinion, however, conformable to that of the other universities of Europe, was at last obtained," &c.* The

* It is somewhat curious to see how Hume deals with this question, and how perfectly his infidel theories of Scripture authority on the point pervade the arguments of our Libertarians. In a note he says, "*Even judging of this question by the Scripture*" (of course it was no rule to him), "*to which the appeal was every moment made*, the arguments for the king's cause appear but lame and imperfect. Marriage, in the degree of affinity which

farther steps it is unnecessary to describe. So much has been said on this point to let ordinary readers see how little dependence is to be placed on the rash and unscrupulous assertions of the advocates for the marriages in question.

No one can peruse this account of Hume, who gives his authorities in the margin, without seeing the historical falsehood, as well as absurdity of the allegations, that the law of England had its origin with Henry VIII., or that the universities, as is commonly alleged, were bribed by Henry to decide in his favour. The whole Civil Law of Europe, for 1200 years, had been in his favour; and the Canon Law never knew anything else for 1500 years. It was by a violation of it that his marriage took place at first; and it is no proof, at best, of its non-existence or unsoundness, that he tried to take advantage of it to get his marriage annulled, when he found it disagreeable to him; or that the men who declared what it was, were either rogues or sycophants. That he had willing agents, who wished to get hold of funds, under the pretext of bribing them, will not overthrow the whole facts of history. The following passage from an American work, much in the spirit of Dr Eadie's statement above quoted, prefaced, as his is followed, by the usual throwing into the scale, as make-weights, of first-cousins, and god-fathers, and god-mothers, is worthy of notice:—"The marriage of Henry VIII., being to the widow of his childless brother, was understood to be forbidden, not by the laws of Moses, but of the Romish Church, and therefore to be within the dispensing power of her head, the Pope. . . .

Dr Livingston, referring to the marriage of a sister-in-law, says 'This sin was always condemned by the Church of Rome.' True, indeed, it was condemned, as well as the marriage of her (*sic*) seventh cousin; but it was never condemned in that church as unscriptural, and without the dispensing power, until the influence of Henry VIII., himself a Roman Catholic at the time, obtained a contrary opinion from some (!) of the Roman Catholic doctors." "*Some*," indeed. There was scarcely any other opinion to be got. Again, this writer says—"To show what little respect is due to the opinions obtained by Henry VIII., or that they are not to be received as the general opinions of either Protestants or Roman Catholics at that time, let us hear the testimonies of a competent witness. Cavendish, in his *Life of Wolsey*, says, 'that the foreign universities were fed with such large

had taken place between Henry and Catherine, is, indeed, prohibited by Leviticus: but it is natural (?) to interpret that prohibition as a part of the Jewish ceremonial or municipal law; and though it is there said, in the conclusion, that the Gentile nations, by violating these degrees of consanguinity, had incurred the divine displeasure, the extension of this maxim to every case before specified, is supposing the Scriptures to be composed with a minute accuracy and precision to which we know with certainty (!!) the sacred penmen did not think proper to confine themselves. The descent of mankind from one common father, obliged them, in the first generation, to marry in the nearest degrees of consanguinity: instances of a like nature occur among the patriarchs; and the marriage of a brother's widow was, in certain cases, not only permitted, but even enjoined as a positive precept, by the Mosaic law. It is in vain to say that this precept was an exception" (he ought to have said, it is in vain to say that *all* these cases were exceptions) "to the rule; and an exception merely confined to the Jewish nation. The inference is still just, that such a marriage" (why not say such marriages as brothers and sisters, if his argument be good?) "can contain no natural or moral turpitude, otherwise God, who is the author of all purity, would never, in any case, have enjoined it."—*Hume's History*, A.D. 1529, chap. xxx. One is not surprised at such reasoning in the mouth of an infidel, and of one who maintained that murder was only changing the current of a little red fluid called blood, and adultery no harm if it were not known. But Christian men should dread to use his arguments. In one thing he is fully as honest as they. He yields to the facts of history; and admits that such marriages are prohibited in Leviticus. His argument, as used by others, will be noticed in its proper place.

sums of money, that they easily condescended to the requests of the commissioners; and Crook, the king's agent, writes that he found the greatest part of the 'divines of all Italy mercenary;' and tells that 'he doubts but all Christian universities, if they should be well handled, would earnestly conclude with his Majesty;' adding, that if he had been sufficiently furnished with money, though he had procured, besides the seals which he then sent, 110 subscriptions, yet it had been of nothing in comparison with what he might, and easily would have done."

Now what have we here? This writer had quoted Jeremy Taylor, to prove that there was at that period "a general consent that the *judicial* degrees do not, by any law of God, bind Christians to their observation." It is presumed there is a general consent to that proposition still. But what are the "*judicial* degrees?" Supposing it were as Cavendish asserts, it would only prove that they were reluctant to declare that Pope Julius had done wrong in granting a dispensation to Henry, and Pope Clement was doing wrong in refusing to retract it. That the divines of Italy were mercenary, and for a consideration might be got to give an opinion contrary to the act of a dead Pope, and the intentions of a living one, it did not need the testimony of a court sycophant, anxious to get as much money into his hands as possible, to testify. But what are we to think of the writers who, on scraps like this, set their face against the whole stream of European history, civil and ecclesiastical, for 1500 years; and affirm, as this American writer proceeds immediately to do, "No doubt that the influence of the tyrant Henry VIII. gave a bias to the opinions of Christendom, which, even at this day, has not ceased to prevail?"*

We have already shown that the Canonists *did* maintain that such marriages were forbidden by Scripture. The reason assigned by Hume for the hesitation of Oxford and Cambridge was, not that they were less, but more Popish than the continental universities. They were "alarmed at the progress of Lutheranism, and dreading a defection from the Holy See, scrupled to give their sanction to measures whose consequences they feared would prove fatal to the ancient religion." In short, they were less honest than the continental universities, and scrupled to give an opinion which would place in a difficulty Pope Clement, who, for personal, selfish considerations, hesitated to give an opinion contrary to Pope Julius, who had granted the dispensation.

The Council of Trent did decide that the church had the dispensing power, but whether that was expressed by Pope or Council, or both, is not determined. Canon iii. *De Matrimonia* is, "Si quis dixerit, eos tantum consanguinitatis et affinitatis gradus qui in Levitico exprimantur, posse impedire matrimonium contrahendum, et dirimere contractum: nec posse ecclesiam in nonnullis illorum dispensare, aut constituere, ut plures impediunt et dirimant, anathema sit." "If any one shall say that only those degrees which are expressed in Leviticus can hinder marriage to be contracted, and dissolve it when contracted, and that the church cannot dispense in some of them, or decree that many may hinder and dissolve, let him be accursed." Here, as Chemnitz in his "Examen," who gives an admirable reply to this anathema, says, "What then, is the controversy on this question between the Papists and us? I answer, that in these prohibitions of *divine* and *natural* law the Romish Church assumes to itself the authority and power of dispensing; that is, that of its own

* See "Lawfulness of Marriage," p. 563.

authority and power it can relax and dissolve divine prohibitions; and thus the Tridentine canon denounces anathema, if any one should say that the church cannot dispense in some of those degrees which are divinely prohibited.* And yet men, who write with great confidence, like this American writer and his copyists, do not hesitate to say, "But the Roman Catholics did not say that they found all their marriage laws in the Bible." Certainly they did not. But what follows is not the whole truth, viz., "Those which were understood to be forbidden in the Bible were held, by at least the sounder doctors in the Church of Rome, to be without the dispensing power of the Pope, so that he could not grant leave to contract them; but over all those which were forbidden only by the church, he was understood to have a dispensing power." The above canon proves that the dispensing power is held by the Council of Trent to reside somewhere in the church, even in cases forbidden by Scripture; and therefore the fact of the Pope's dispensation in the case of Henry VIII. is no proof that he held the prohibition of the marriages in question to stand on a lower ground than others prohibited in Scripture. Popes did not always follow the opinion of the "sounder doctors;" and it is a historical fact that the Council of Trent was ruled altogether from Rome.†

The writers on the other side, then, both mistake the question and pervert the whole facts of history. Any one who wishes to be further informed on the subject of the marriage of Henry, may consult Fuller's "Church History of Britain." We have seen that the question turned on the point, whether Pope Julius had a right to dispense with the law of God when he granted Henry VIII. a dispensation to marry the widow of his brother Arthur. If he had not, then, it was argued, ought Pope Clement, his successor, to annul his dispensation. Some unprincipled Popish controversialists maintained that Julius had the right. The question was submitted to the universities of Europe, and ten of them declared that it was above the Pope's power to dispense with the positive law of God. The question was not as to the *law*, but as to the Pope's power to dispense with it. Fuller says, "Of all the universities declaring for the Pope's inability to dispense with God's positive command, most bold and daring (because largest, fullest, clearest), was that of Bononia, the chief city in Romandiola, a province of Peter's patrimony, and that city the Pope's retiring place. Nor can I omit the conclusion of their declaration:—'We confidently do hold and witness, that such marriage is horrible, accursed, and to be cried out upon, and utterly abominable, not only for a Christian man, but for an infidel, unfaithful, or heathen, and that it is prohibited, under grievous pains and punishments, by the law of God, of nature, and of man; and that the Pope, though he may do much, unto whom Christ gave the keys of the kingdom of heaven, hath no power to give a dispensation to any man to contract such marriage. In witness whereof we confirm this our judgment, both under the seal of our University, as also with the seal of our College of Doctors of Divinity, and have subscribed it in the cathedral church of Bonony, the tenth day of June, in the year of our Lord 1530.'" The stories of bribes and of Crook's management, Fuller sets aside in his usual quaint fashion, and adds, "The best is, the cleanly *hands* of the *court of Rome*

* "Examen Decretorum Concilii Tridentini," Pars Secunda, p. 1236.

† Father Paul, in his History of the Council of Trent, tells us, so much was this the case, that the wags about the Council said, in reference to their calling the decrees the decisions of the Holy Spirit, that the Holy Ghost was brought from Rome in a cloak-bag.

had never, no doubt, any bribes sticking to their fair *fingers*. But though that English *angels* (a coin) flew over to foreign universities, yet there lieth a real distinction betwixt a *bribe* and a *boon* freely bestowed, not to bow and bias their opinions, but to gratify their pains and remunerate their industry, in studying of the point." The truth is, all Popish authorities had more interest in sustaining the right of the Pope to dispense with the law, and so enable another Pope to manage Henry for his own interests, than Henry had in procuring a denial of the right. At all events, the judgment of the Universities is unquestionably the judgment of the Canon Law, as it had been of the whole professedly Christian Church from the beginning, viz., that such marriages were unlawful. I know not whether it argues the greater ignorance and confusion in regard to any historical fact, or the greater dishonesty, deliberately to argue any question on the truth of the contrary assertion.

Fuller, after discussing the question by the usual arguments, says,—“Thus far the sum of the sense of Protestants and others. No fewer than an *hundred* authors were writing at this time against this marriage, all which were produced by the king in the next Parliament. Yet very many Papists professed their judgments in print on the contrary side, both English and outlandish divines; and (to give them their due) brought very plausible arguments.” He enumerates these advocates of various countries for the Pope’s power to dispense with the law of God, and introduces the enumeration in the following terms:—“Of all these, John Fisher, Bishop of Rochester, led the front, whom some Catholics call *Saint John*, because beheaded like the Baptist, though on contrary accounts—John Baptist for saying, *it is not lawful*, Mark vi. 18; John Fisher for saying, *it is lawful for thee to have thy brother’s wife*.”

These statements have received more attention than their intrinsic value, in the sight of any one competently informed on the subject, can claim, only because it is useful to let it be seen how little dependence is to be placed on the rash averments of the men who are straining every nerve to delude the public mind; and with whom any kind of assertion that makes for their view, is an authority and an argument. The reader will now be able to judge of such a piece of history as the following, contained in one of the tracts in the “*Collectanea Majora*” of the Libertarians:—“Henry did indeed ‘make his own determinations’ with the universities. At Oxford the Masters of Arts were threatened; but standing firm, they were expelled and punished. At Cambridge the recusants were bribed without effect; but at last were persuaded to leave the house without voting. The foreign universities were brought over by bribes. This is expressly stated by Cavendish (Cavend. Mems., p. 99), and expressly alleged by the English parliament (1 Mary, sess. 2, v. 1).” The uninitiated will now understand the mystic signs, “Cavend. Mems.,” and can determine the point without the authority of a servile Crook, agent of the tyrant Henry, or of the crouching slaves of the bloody Mary.

No man, we presume, questions what is the opinion of the Church of England on this subject, though it be not contained in any one of the Thirty-nine Articles.* The doctrine of the Westminster Confession of

* The 99th canon (A.D. 1603) is as follows:—“No person shall marry within the degrees prohibited by the laws of God, and expressed in a table set forth by authority, in the years of our Lord God, 1563. And all marriages so made and contracted shall be judged incestuous and unlawful, and consequently shall be dissolved as void from the beginning ;

Faith we have already quoted, and little more need be said on that score. But as it is fashionable with a certain class of writers to speak of it with contempt, it may be proper to remind those who are little versant in such questions, of the nature and character of this Assembly. It was called by the Lords and Commons of Great Britain. It consisted, first and last, including the Scotch Commissioners, of more than 200 members—peers, commoners, lawyers, and divines—all of the highest name and learning both in theology and law, and bound by solemn oath to decide nothing but according to holy Scripture in matters of faith. One hundred and upwards of these divines attended regularly. It lasted about four years. Any man who will read Principal Robert Baillie's quaint account of this Assembly, see their extreme care, and long and anxious discussions of every point; and glance his eye over the list of names, and then at his own library, unless it be very defective in English theology, will have no very comfortable reflection in then observing the sneers of some modern pamphleteers, and may be somewhat surprised when such a man as Mr Binney of London sneers at Scotch notions as derived from what he calls "*their* Confession," though it happened to be England's *before* it was "*theirs*." It is much to be doubted if the times of Charles the Second, when this Confession was cast off, reflect very great glory on England. The celebrated John Owen, who copied this Confession almost verbatim for the Congregational Churches, will be held a more competent witness to its value than even Mr Binney. The Westminster divines were, of all others, in the most favourable position for examining the question. They had not only thrown off the yoke of Popery, but lived after the excitement of the Reformation had ceased, and when every question of criticism, morals, and moral and ecclesiastical jurisprudence, had been put into the crucible. They were men of vast learning, and specially selected for the duty. They deliberated and discussed, in committees and Assembly, every point *seriatim*, and clause by clause. They sat long, and had all the means of a great nation at command for their work. They were solemnly sworn to discharge their duty faithfully. When one looks at the names, and then the tomes, of a Twiss, a Gouge, a Godwin, a Gattaker, an Arrowsmith, a Lightfoot, a Calamy, a Caryl, a Marshall, a Manton (who writes the preface to the Confession of Faith), a Gillespie, and a host of others, and remembers that they had such men as the great Selden to cope with on points on which they differed, and met him successfully, though on the question in hand they had no difference of opinion—one is at a loss how to treat the flippancy of those who presume to despise them. I have noticed this point the more specially, from the wretched attempts made, in our day, to disparage this noble document, by many whose antecedents rebuke their degeneracy.

Section VII.—Opinions of American Protestants.

The doctrine of the Reformed Churches of Britain passed with the Puritans into America, and was, till very recently, the doctrine of its civil law, as well as of the various sections of the Christian Church. In the Presbyterian Church a case came before the Synod, in the year 1717, in which

the parties so married shall, by course of time, be separated, and the aforesaid table shall be in every church publicly set up and fixed at the charge of the parish." The table referred to is that known as Parker's Table, which contains these—"Wife's Sister, Husband's Brother; Brother's Wife, Sister's Husband."

such marriages were pronounced, *nemine contradicente*, incestuous and unlawful, and it was declared that so long as the parties lived together they must be debarred from sealing ordinances. Nothing more seems to have occurred on this subject till more than forty years thereafter. From 1758 on to 1842 there were several cases, in some of which decisions were given on different grounds, more or less stringent. The following summary of the more recent, is given by one who writes in favour of such marriages. After detailing various cases, he says,—

“*May 24th, 1825.*—The committee appointed by the last Assembly on the subject involved in the appeal did not report. *Resolved*,—That they be continued. *May 19th, 1826.*—The committee appointed by the former Assembly on the subject involved in the appeal did not report. *Resolved*,—That this committee be discharged; and that the subject be committed to Dr Neil, Dr Heron, Mr Fisher, Dr Chester, and Dr Anwell, with instructions that they report during the sessions of the present Assembly. Just ten days after, that committee reported that, in their opinion, no relief can be given to the said M'Rimon without an alteration in the Constitution, ch. xxiv. sec. iv., the last clause of which declares that ‘the man may not marry of his wife’s kindred nearer in blood than of her (his?) own.’ But, inasmuch as a diversity of opinion and practice obtains on this very important subject, they submitted the following resolution, namely:—

“*Resolved*,—That the Presbyteries be, and they hereby are, directed to take this matter into serious consideration, and send up, in writing, to the next General Assembly, an answer to the question, Whether the above-quoted clause of our Constitution shall be erased? The report was adopted.

“At the meeting in May 1827, fifty Presbyteries reported against the erasure, eighteen in favour of it, and twenty sent no report. It seems to be the fair presumption that those twenty Presbyteries were in doubt, and, therefore, did not report either for or against the erasure.*

“Her last case of the kind, that of Archibald M^cQueen, came before the Assembly of 1842, by appeal from the Presbytery of Fayetteville, who had suspended him from the exercise of his office and the communion of the church because he had married the sister of his deceased wife. The Assembly, by a large majority, refused to sustain the appeal. Sixty-eight voted not sustain, eight to sustain in part, five were *non liquit*, and one was excused from voting. Thirty-four had obtained leave of absence that morning, and twelve the previous day.

“The cases of Presbyteries which have been stated (13 in all) came before the supreme judicatories in the course of one hundred and twenty-five years, ending in the year 1842. These cases consist of one marriage between the relicts of brothers and sisters, two marriages to the widows of brothers, one of them a half-brother, four marriages to the nieces of former wives, and six to their sisters.”†

Even in this *resumé* by a partial hand, it is very clear that the American Presbyterian General Assembly, even up to 1842, held such marriages either anti-scriptural or unscriptural, and unlawful, sinful, and inexpedient. What were their special shades of difference, it concerns us little, as an authority to us, to know. It is clear, however, that they, in common with all the churches of the Reformation, originally held the marriages in ques-

* It is more probable that they never considered the subject.

† Marshall on Lawfulness of Marriage, &c.

tion to be contrary to the law of God, incestuous, and excluding, *ipso facto*, from church privileges. As to the causes of change, both in the opinions of ministers of religion and in civil legislation on the subject, these may be noticed when we have glanced at the relative testimony of human legislation in modern times.

Meantime, we have the undoubted *testimony of the whole Christian Church, of every shade and degree, whether of purity or of corruption*, for 1500 years, holding the marriage of a man with the sister of a deceased wife to be unlawful and incestuous. In regard to the first 300 years of the Christian Church, if there be not positive testimony that it held the same thing—as there is strong and almost unquestionable presumption that it *did*—there is assuredly not a *vestige* of evidence that it held the contrary.

In regard to anything venerable in the Jewish Church, the evidence we have seen is all to the same effect. The opinions of the Talmudists undoubtedly carried the general principles that imply it; and at best, wherein it seems otherwise, they are only the parallels, under Judaism, of Popish superstition, traditions, and legends, under Christianity. Their conclusions are drawn, not from the law of God, but from their preconceived notions of the lawfulness of polygamy; and these again are drawn from their own corrupt practices, which they sought to shelter under the venerable names of Abraham and others, through the connection with whom, according to the flesh, they expected salvation. Their example is a warning rather than a sanction.

Section VIII.—Relative Testimony of Human Legislation.

The writer believes that it may be laid down in the outset as an indisputable fact on this subject, *that in all human legislation professing to be based on divine revelation—that is, on the Word of God revealed in the Scriptures of the Old and New Testaments—the marriage of a man with the sister of a deceased wife is declared to be unlawful.* If this be fact, as it is believed to be, it is very significant, and will make legislation, that overlooks or ignores the authority of divine revelation, as a basis on such questions, of very little value indeed as an authority with Christian men.

In respect to all Popish nations the fact admits of no dispute, and no time need be wasted on the subject. In regard to Protestant nations the fact is no less certain. Those of them where the law is different, not only do not proceed on such a basis, but, as we shall see, legalise marriage and sanction divorce in the teeth of the Levitical law, and on the principle that it is no longer binding on nations or individuals, but that it is merely ceremonial or judicial, in the sense of being limited to the Jewish polity, now abolished. In those Protestant countries where such marriages are sanctioned by law, the laws are comparatively of recent date, and where principles that do not admit of the application of Scripture principle and authority to legislation have become prevalent.

Meantime, let us shortly glance at the law in Protestant States after the Reformation. It has already, indeed, been stated in substance, in the passages adduced from Buehmer and Broüwer, as quoted by Mr Badeley in proof of the doctrine of the Reformers, viz., that they universally held the principle, that what was forbidden to the man was forbidden to the woman;—that as a man was forbidden in Lev. xviii. 16 to marry his brother's wife,

the woman was forbidden to marry her sister's husband. The law at, and for about two hundred years after the Reformation, remained the same in all Protestant countries.* The period when the change took place is no great guarantee for its scriptural soundness. An American writer, who styles himself "A Puritan," writing about ten years ago, says,— "But the last fifty years have developed a great advance of the public mind towards the truth;" and in proof of this development "towards the truth," he says,— "In this country (the United States) all the States but one allow of the marriage of a wife's sister.† In the Protestant States of Europe the case is similar. Throughout the whole of Russia, Saxony, Hanover, Baden, Mecklenburgh, Hamburg, Denmark, and most other States, such marriages may be contracted." The law of Russia is that of the Greek Church, and is against such marriages. "In the Protestant States of Europe."—This is *rather* a glaring specimen of the figure of a *part for the whole*. In plain British phrase it means Germany; for even Denmark can hardly be esteemed anything but a German appendage; and when the writer adds, "and most other Protestant States," it affords a tolerable specimen of the *scrupulous* accuracy of this class of writers. Writers on the same side are not ashamed to follow his example in this country. Dr Janeway, remarking on the "Puritan" on this point, says,— "Judge Storey has, in his 'Conflict of Laws,' the same enumeration and the same additional clause." What the law of the Lutheran Church in Germany *now* is, the writer has no means of ascertaining at present. But thoroughly Erastianised as it is, it is not improbable that it will have no "conflict of laws" with the state.

This "conflict of laws" suggests very serious warning and consideration to the churches of Britain, Erastian on the one hand, and Voluntary on the other. In regard to the former, if public sentiment, no matter by what means, principles, or influence, become sufficiently impregnated with loose views, so as to procure a change in the law of the land, either their discipline or their faith falls as a matter of course; or

* Since writing the above, I have obtained from the very valuable library of the Faculty of Advocates a sight of Böehmer and Bröüwer. On this point, after discussing the whole subject with all the fulness and nicety of an able juris-consult, Böehmer sums up by declaring, "*In the ecclesiastical laws of Protestants I find no exception.*" The whole section will be quoted on another branch of the subject.—Böehmer's "*Jus Ecclesiasticum Protestantium*," tom. iv. p. 174. Bröüwer declares that the marriages in question were unlawful in "ALL GERMANY," that is, at a period when the Word of God was the rule of law on the subject. He will also be quoted more fully hereafter.

† This is not very consistent with a statement made by another American writer, who says, that in "Kentucky and North Carolina" such marriages are visited with severe discipline;" and again—"In some few of the States the English rule was adopted."—Marshall on "Lawfulness of Marriage," pp. 35 and 60. Yet I find these very States, North Carolina and Kentucky, in a petition to the House of Lords, enumerated as holding them lawful, as also Holland and Sardinia, where the law, we have proved, is the very contrary. How many others are thus falsified in their enumeration it would be rather troublesome to ascertain. But these parties seem to have opened the map, and asserted it of almost every country they found there, if it merely had a name. They enumerate the small principalities of Germany, and cantons of Switzerland, as mighty States. It would not be half so barefaced a delusion to practise on the ignorant if we should enumerate the petty States of Italy, the counties, towns, and parishes of Great Britain and Ireland, where the law is opposed to them. Many Scotch parishes are three times as large and populous as these mighty Swiss States—such as Uri, Zug, and Unterwalden,—though the fact had been as stated, which it is not. It appears from the Report of her Majesty's Commission of 1847, that Neuchâtel is the only canton where such marriages are allowed. Whatever men, who have got themselves into a difficulty by violating the law, or their hired agents, may do, it is unworthy of Lord Denman to lend his name to the support of such unworthy arts. Such rash statements as this will not tend to raise public estimation of judicial gravity or accuracy.

they must sustain a conflict with the state ; in other words, as in Scotland, on another point, a disruption. In regard to the latter, it is very clear that, by whatever means, principles, or influences, it is brought about, after the state has legalised such marriages, the church voluntary, or disestablished, is at once placed in collision with the law of the land, if it declare incestuous the marriages which are civilly lawful. In such circumstances there is a very strong temptation to discover some way of getting out of the difficulty, and where religious principle is low, the readiest way is to lower the church's creed, and modify her discipline. This is the history of the case in the United States. No one can peruse the discussions, by their writers, on either side of this question, without discovering it. No one can peruse these discussions, and observe the spirit of levity, latitudinarianism, and German rationalism, both as to principles of belief and of morals, the loose notions as to creed and to church discipline which some of them entertain, without seeing the perfect truth of the following statement of Dr Janeway, pp. 49, 50 :—

“ ‘ But,’ says our brother, ‘ the last fifty years have developed a great advance of the public mind towards the truth,’ (p. 23.) And what was the state of the public mind fifty years ago ? In the middle of the last century Voltaire and his impious associates formed their conspiracy against Christianity ; and laboured diligently, in their unholy vocation, to overturn the Church of Christ, and to bless the world with the reign of infidelity and atheism. Their efforts were crowned with most alarming success. Frederick the Great of Prussia patronised Voltaire. Princes and crowned heads were poisoned with infidelity. The French Revolution burst forth like a terrible and destructive volcano. Infidelity became ascendant. Religion was laughed to scorn. The Sabbath was abolished. The goddess of Reason was enthroned and worshipped. The baneful influence of infidelity and atheism was spread more or less over a large part of Europe. Nor did this country escape the miserable contagion. Such was the depressed state of religion and the prevalence of infidelity about fifty years ago, that a venerable theological Professor advised his pupils (the writer heard him) to prepare their minds for a season of persecution.”

A consideration of the prevalence and influence of infidel and pantheistic principles in Germany would throw much light on its legislation. The author had occasion, some time ago, to consider this subject in relation to the question of the connection of Popery and Infidelity, and the proof that Infidelity prepares the way for Popery, and the result of his inquiries is embodied in the following short statement :—Every one is aware that that country has been fearfully overrun with open and avowed infidelity—that her literary men, with the King of Prussia at their head, conspired, during the course of last century, with the infidels of France, and other parts of Europe, to uproot Christianity. They united together to command the public journals of all sorts—to make pictures and engravings means of moral corruption—to bring the entire press under their influence and control—even so to command it, as that booksellers would sell only their productions—and these alleged sole and only friends of freedom, and of free discussion, actually conspired to destroy freedom of opinion, and to prevent the publication of any views hostile to their own. They laid plans to secure the education of youth in universities and schools—nay, to put their friends into the parish churches, and on the bench, and in tutorships—they “ had a seminary for

Bavarian priests." * They succeeded to a great extent in debauching the principles of influential men and women, especially the young—in destroying social virtue—and were many of them monsters of every vice—fornication, adultery, murder, poisoning, and assassination. Such were Barhdt, Weishaupt, Zwack, and many others, of whom Robison says, "all were liars." † Under the name of a society of freemasons, formed and governed after the model, and by the maxims of the Jesuits, many of whom were members of their conspiracy, they designed to destroy the religion and governments of Europe. Infidelity advanced also under the name of Neology, or Rationalism, or Naturalism—varying in all degrees from Pelagianism to Atheism. ‡ This system they adopted from the English Deists; while, like them, they pretended respect for Christianity, but asserted the supremacy of their own erring reason, and the right to bring all the facts and doctrines of Scripture to its standard, and, as they agreed with, or differed from it, to receive or reject accordingly. They advanced all the objections, and many more, to Scripture, which have been produced by infidels, and by Papists to the Scripture as the sole rule of faith. This system infected the great majority of the clergy, who turned the pulpit into an engine of mere Paganism, and taught the most unchristian tenets and pernicious morals under the name of Christianity—rejected confessions of faith, and professed the right of the utmost latitude of opinion, spoke and printed the worst infidelity, and even immorality—while they professed to be ministers of the gospel—and thus shocked all feelings of decency, honour, and common honesty, and wrought fearful havoc in the minds of the people. "The churches were thinly attended, the Sabbath little honoured, and the Bible neglected." §

One may form some estimate of the weight due to Germany or German legislation on any subject, either of religion or morals, by the following statement by Dr Julius Müller, Ordinary Professor of Theology in the University of Halle, Wittenberg:—"Unquestionably the strongest current of our German literature is that which has its source in Pantheistic modes of thought; and this Pantheistic predominance may be seen, not only in our philosophy, but also in the other sciences, and perhaps prevails most of all in our polite literature; indeed, the religious and political convulsions of the most recent times have made manifoldly evident how deeply these methods of representation have already become, by a great part of our people, thoroughly incorporated. After Deistic rationalism ceased to exert much influence, at least in scientific and æsthetic literature, Pantheism assumed to itself the right of inheritance, while impure, mongrel forms of rationalism have attempted in vain to disturb its possession. It has, too, succeeded in prepossessing the spirit of the age in its favour, which gives it the great advantage of not being under the necessity of criticising and controverting other modes of thought, which are no longer in connection with its own principles, but allows it to pass judgment upon them quite according to its own rule, as if the right of doing so were its own." ||

It would be a very extraordinary thing, indeed, if a nation steeped in Pantheism; in the belief, if belief it can be called, that the universe is God, and therefore "every one members one of another" in the material sense, as well as each and all component parts of God himself, or more properly,

* Robison's Proofs of a Conspiracy, pp. 191-200. † Ibid. p. 252.

‡ Rose, xxxi.

§ Rose's Protestantism in Germany.

|| Müller's Christian Doctrine of Sin—Introduction.

according to this theory, *itself*, should be very strict in their notions of the marriage relation. One would as soon expect strictness among the Pantheistic Hindus, or the ancient Egyptians, or among those described in the first chapter of the Epistle to the Romans. Every one who knows Germany, knows well enough how thoroughly corrupt it is in this respect; and the best Germans bewail it, and blush for it. The marriage of uncles and nieces is not only permitted by dispensation, but, according to a German witness before the Royal Commissioners, Mr Bach, (900) "are not in a great part of Germany" considered incestuous. In a portion of Prussia, equal to a twelfth part of the whole, about 600 requests for divorce had been, till lately, brought before the Royal Supreme Court of Judicature each year,—TWO HUNDRED of them for Berlin alone. And though the number had diminished to 400 a-year during the previous three years, it was mainly in the rural districts. They had increased in Berlin. The Bishop of Exeter, in an argument against such marriages in the House of Lords, on Feb. 26, 1851, and which Lord Campbell pronounced unanswerable, after deprecating our following the example of Prussia, said,—“The population of the monarchy of Prussia was, he believed, somewhat less than that of England and Wales, and it appeared from the returns that in that population there occurred no fewer than 7,800 divorces in three years, or about 2,300 in each year.” The condition of things is no better in some other German states.

The authority, either of ecclesiastical practice or of civil legislation, in a country of which this is a just picture, may bulk in the eye of ignorance or infidelity,—may help those who have violated the laws of their country, and, as we hope to show, of their God, to hold up their heads,—may serve the purposes of hired agents, and sway the minds of politicians, of little religion themselves, and whose whole rule of conduct is, what saith the multitude,—but can weigh very little with those who believe in the authority of God, expressed in the Old and New Testaments. One would wonder that professed ministers of the gospel, either in Great Britain or America, should be found aiding and abetting in this species of argumentation, were it not that there is no inherent or prescriptive security, that like causes will not produce like effects in Britain or America as they have produced in Germany. Of as little authority as a rule for Christian men, who take their Bible as their guide, must be the legislation of any country, such as America, which has arrived, no matter by what process, at the condition, if not of ignoring, at least of passing by, the recognition of the Bible as any principle of its constitution, or regulator of its laws.

In regard to the civil law of England, it has been the practice of American writers to deny that it was founded on the Levitical, and to quote, in support of their denial, the opinion of Judge Vaughan in the time of Charles the Second. The writer cannot enter upon this question. Those who wish to see it fully discussed may consult the very learned pleadings of Edward Badeley, Esq., as bound up in the volume of Dr Pusey, already quoted. An extract will be given in the Appendix.*

In the meantime, let the following passage (p. 174–176) be well pondered, with the fact that he obtained the judgment of the Court of Queen's Bench in his favour:—“And now, my lords, I believe I have (I fear at immoderate length) carried your lordships through, not only the reasons on which I consider myself entitled to your lordships' judgment, but also

* See Appendix A.

the authorities by which I think these reasons are supported. I have shown that the statute of William IV. (Lord Lyndhurst's Act), whether it be looked at by the light of the statute law, or the ecclesiastical law, or the decisions of the courts of common law as explaining and affirming both, can be interpreted but in one way, and that that interpretation necessarily includes within the prohibited degrees the case of the marriage with the wife's sister. I have shown this with reference to the statute of 28 Henry VIII., cap. 7, which I submit is in force. I have shown it with respect to the 32 Henry VIII. with reference to the term 'Levitical degrees,' and with reference to the chapter of Leviticus itself. I have shown the proper mode—the mode always adopted—of interpreting that chapter of Leviticus, and that the objections which have been made to this mode of interpretation are of no force, that they have not been acted upon, and that they are not recognised. I have shown that the statute of Henry VIII., and the decisions upon it, are not interfered with by the statute of Queen Mary, and that Queen Mary's statute cannot be allowed to have any weight. And lastly, my lords, I have shown that the ecclesiastical law of this country, from the earliest period to the present, has gone in one uniform course; and that whether *before* the Reformation, at *the time* of the Reformation, or *since*, the decisions have been uniform regarding marriage with a wife's sister as incestuous. I have shown not only that the authorities are all one way, and that they are all consistent, but that there is not a single authority, as far as I can discover, the other way; and not a single statute which really interferes with the construction for which I contend: and I have shown your lordships that upon the Continent the rules of the canon law, the rules of the civil law, and the practice of other nations, concur and conspire with the decisions of the courts of this country, and that the illegitimacy of one of the parties makes no difference. I would ask your lordships, therefore, whether a case can be put before you more clear or more conclusive than this?"

Mr Badeley was well entitled, after the vast body of proof he had adduced, to put this question, not as a mere special pleader, but as an honest man. His concluding remarks are well worthy of serious consideration. He adds—"My friend, Mr Foster; at the conclusion of his argument, mentioned that there were certain States upon the Continent which had adopted a different practice, and had of late allowed marriage with a wife's sister. Be it so, my lords; in so doing, they have broken the ancient rule of the Christian world, and set at nought the opinions of the more eminent reformers, whom they most profess to venerate. We need not envy them their liberty, I should have rather said their license; for I believe that many of the more thinking persons in these countries are ready to admit that the consequences of the alteration have been by no means happy, and that they regret in vain the loss of that domestic familiarity and confidence which are at once the comfort and the boast of England. My learned friend mentioned also that there are a number of persons in this country who have already contracted these marriages. If they have, we can only regret the fact. It can have no influence here, and I humbly submit that it ought to have no influence anywhere, because, my lords, I believe that in those very districts where these marriages have been principally contracted, quite as numerous instances might be found, if sought for, of persons who are living in the lowest and most degrading species of vice; and certainly, if the violations of a law are

to be urged as an argument against the law itself, then I think the records of our criminal courts will show that neither our property nor even our persons are likely to be long secure. And perhaps, my lords, if those who are curious in the statistics of incest examined the matter farther, they would find how many of these marriages owe their origin to that unfortunate agitation which has of late prevailed upon this subject, and to that mischievous industry with which people have been taught to believe that these marriages are not illegal; for we know how readily those who are intent on the commission of any offence, particularly one against the laws of purity, are led to think that the offence is, after all, nothing, or that 'the sin,' in their case at least, is not 'so exceeding sinful.'"

The law of Scotland is not more doubtful than that of England, and proceeds on the very same principles, viz., the degrees prohibited in Lev. xviii., and on the principle of parity of reasoning. Here I am tempted to give the whole of the very lucid statement both of the principle and of the law on this subject as given in Erskine's "Institutes of the Law of Scotland." "*On the computation of the degrees of propinquity and affinity,*" he says,—

"Propinquity is distinguished by its different lines, and measured by degrees. A line in propinquity is a series of persons descended from the same stock or root. That line where the propinquity is constituted between the persons generating and generated, is called *the direct*. A father is, with respect to his child, in the direct line of ascendants. Where the persons related are not descended the one from the other, but have the same common parent, by whom the propinquity is formed, the line is called *the oblique, transverse, or collateral*. In computing the degrees of consanguinity, according to the Roman law, every person who was generated made a degree, without reckoning the common stock. By this rule, father and son were in the first degree of consanguinity, because the son is the only person generated; brothers in the second, uncle and nephew in the third, and first cousins or cousins-german in the fourth. The computation of the degrees of propinquity in the Canon law agrees precisely with that in the Roman, in the direct line of ascendants and descendants; but in the collateral, the Canonists compute, not by the number of persons descended on both sides from the common stock, but by the number of generations upon one side only. According to this reckoning, cousins-german are in the second degree, because each of them is but two generations distant from the grandfather, who is the common stock; whereas they are by the Roman rule in the fourth. In the unequal collateral line, where one of the two is farther removed than the other from the common stock, the Canon law reckons the distance by the number of generations of the person farthest removed, *Decretal*. l. 4, t. 14, c. 9. Thus a niece is related in the second degree to her uncle, because she is related in the second degree to her grandfather, the common stock; and, by the same rule, she is no farther removed from her uncle's son; which abundantly discovers the absurdity of that method of reckoning. Affinity is that tie which arises in consequence of marriage betwixt one of the married pair and the blood-relations of the other; and the rule of computing its degree is, that the relations of the husband stand in the same degree of affinity to the wife in which they are related to the husband by consanguinity; which rule holds also, *e converso*, in the case of the wife's relations. Thus, where one is brother by blood to the wife, he is brother-in-law, or by affinity, to the hus-

band. But there is no affinity between the husband's brother and the wife's sister, which is called by doctors *affinitas affinitatis*, because there the connection is formed, not between one of the spouses and the kinsman of the other, but between the kinsmen of both.

"As to the degrees in which marriage is prohibited, the law of Scotland has adopted the Jewish law, by Act 1567, c. 15, declaring that marriage shall be as free as God hath permitted it; and that seconds in the degrees of consanguinity and affinity, and all degrees farther removed, contained in the Word of God, may lawfully marry; by which manner of reference it would seem that our legislature hath considered the law of Moses in that matter to be obligatory upon all nations. By Lev. xviii. the following rules are established, either expressly or by consequence. *1st*, Intermarriage between ascendants and descendants in the direct line is forbidden *in infinitum*, let the degrees of propinquity between the parties be ever so distant;—for such marriages are universally agreed to be repugnant to the law of nature, and destructive of the ties of birth, Grot. De Jur. Bell. l. 2, t. 5, § 12, ver. 2. *2dly*, Marriage, even in the collateral line, is forbidden *in infinitum*, where one of the parties is *loco parentis* to the other, i. e., where he is brother or sister to the direct ascendant of the other party. Thus, one cannot intermarry with his grand-niece, though he be as far removed from her in degree as first cousins are, both by the computation of the Civil and of the Canon law. *3dly*, In every instance which falls not under either of these two rules, marriage is lawful in the second degree according to the Canon law, or in the fourth, according to the Roman; and consequently cousins-german may intermarry, and all that are farther removed than they. It may be observed, that the act 1567, which was enacted not long after the Reformation, has followed the rule of the Canon law, as it was the common way of computing degrees in Scotland at that time, and continues to this day among the vulgar. *4thly*, The degrees prohibited by the law of Moses in consanguinity, are, in every case, virtually prohibited in affinity; and by the aforesaid act 1567, the prohibition is equally broad in the degrees of affinity as in those of consanguinity. Thus, one cannot marry his wife's sister, more than he can his own. In all this matter the rules are the same by the law of Scotland, whether the parties be related by full or by half blood."*

In a note Erskine refers to Professor Hume's "Commentaries on the Law of Scotland," as having some very important observations on the subject. Hume is less clear and distinct than Erskine; but only less clear and distinct as to his own opinion what ought to be the law, than as to what is the law. He gives a case of the double crime of adultery and incest, in which the criminal was punished with death; but the sentence was only on the ground of the incest. He then refers to the doubts on the meaning of Lev. xviii. 18, and adds, "Our practice affords, however, one instance of the pains of incest applied to this situation also. I allude to the case of Tannahill (Jan. 8 and 22, and Mar. 12, 1705), who had sentence of death for incest committed with the sister of his deceased wife; but on which conviction Lord Royston has this remark in his notes, *sed dubito an jure*,—'For, since King James's Act has an express reference to the judicial law, Lev. xviii., it ought not to be extended to other cases not therein expressly mentioned.'" This opinion of Lord Royston, it will be perceived, takes no notice of the fact that the "Con-

* "Institutes of the Law of Scotland," book i. tit. vi.

fession of Faith" is part and parcel of the law of Scotland; and his opinion weighed obviously nothing in the mind of Erskine. Bell, in his "PRINCIPLES of the Law of Scotland," says,—“In affinity, or relationship by marriage, the husband and wife being *one*, the blood relations of each are held as related by affinity in the same degree to the one spouse, as by consanguinity to the other. The view on which, in England, it seems to be lawful for a husband to marry his sister-in-law after the death of his wife, has not been admitted in Scotland.” The view here referred to has respect to the anomaly in England which Lord Lyndhurst's Act was passed to correct, viz., that while such marriages were unlawful, and so voidable, if questioned during the lifetime of the parties, they were not void as to civil effects after the death of one of them. On the law of Scotland he expresses not a doubt.*

Bell refers to Lord Stair. His opinion I quote from a speech delivered by Robert Lamond, Esq., a most respectable and able lawyer and esteemed citizen of this city, at a public meeting held in Glasgow, called for the purpose of opposing Mr Stuart Wortley's proposed bill to legalise such marriages. Speaking of Erskine, Mr Lamond says,—“In the other part of his Institutes, when he comes to treat of crimes, he has these important observations,—‘Incest could not be committed by the law of Moses but by those who stood within the degrees either of consanguinity or affinity in which marriage was forbidden (Lev. xviii. 7–16), and it was punished capitally (ver. 29). Now,’ he adds, ‘the law has been adopted by us, in *all respects*, by the Act 1567, c. 14; and though an act was passed during the Usurpation, in 1649, which extended the former to certain degrees more remote, it was repealed by the Act Rescissory of Charles II., and never revived.’ Lord Stair, an earlier institutional writer, and who is by jurists considered our most philosophical writer, lays down the law in these words, and he assigns the reason of the law in his statement:—‘The degrees,’ says he, ‘in which marriage is allowed or forbidden are *by divine institution*. . . . And therefore (Lev. xviii.) where the degrees of marriage are expressed, and unlawful connections forbidden, it is subjoined (ver. 24, 25), “Defile not yourselves in any of these things, for in all these the nations are defiled which I cast out before you, and the land is defiled, therefore I do visit the iniquity thereof upon it.” But unless these degrees of prohibited marriage were a part of the law of nature, written in man's heart as a positive law known to all nations, the Lord, who hath declared that he will judge men by the law which is known, could not have judged the Canaanites by the transgressions thereof.’ And again, (book i., t. 4, § 6), Stair further observes, — ‘Marriage is also void and inconsistent when contracted within the degrees prescribed in Lev. xviii., whereby the next degree collateral is only prohibited both in consanguinity and affinity, which makes those joined in affinity in the same degree as being by marriage *one flesh*.’ And, finally, Professor More, the latest editor of Stair, affirms the same view as law, and supports it by reference to the Confession of Faith, as ratified by Parliament in 1690, and by the Act 1700, cap. 2. Such is the law of Scotland, as laid down by our institutional writers; and the Levitical law, in the question on hand—as expressed in its ordinary acceptation, in the manner in which we have been accustomed to receive it, and not with the gloss of the witnesses

* “Principles of the Law of Scotland. By G. J. Bell, Esq., Advocate, Professor of the Law of Scotland, University of Edinburgh.” Edinburgh, 1830. Part iii. 1527.

who support this new bill—has been confirmed by decisions in our supreme courts; decisions, however, most honourable to Scotland, occurring at very distant intervals, even with centuries intervening.”

Mr Lamond then proceeds to give cases.*

In a work bearing date, “Edinburgh, 1829,” and a high authority on such subjects, I find the following statement of the law of Scotland,—“By the act of the 1st Parliament of James VI., it was ‘statute and ordained that halie bond of marriage made by all estates and sorts of men and women be als lawful and als free as the law of God has permitted the same to be done.’ † It was, too, thereby further declared ‘that seconds in degrees of consanguinity and affinity, and all degrees outwith the samin contained in the Word of the eternal God, and that are not repugnant to the said Word, might and may lawfully marry at all times sen the viii day of March, the zeir of God one thousand five hundredth fifty-aucht zeirs, notwithstanding any law, statute, or constitution made in the contrarie.’ Again, in the 4th sec. of the 24th chap. of the Confession of Faith, as renewed at the Revolution, and ratified by and engrossed in the statute chap. 5 of the 1st Parliament of King William and Mary, anno 1690, it is so expressed.” The writer quotes the said section, and adds,—“But the difficulties of explaining so as to reconcile the texts of Leviticus on this head were found to be so great, that the Act 1649, chap. 16, was passed for the purpose. It was rescinded by the Act 1661 as illegal, on account of the rebellion. By the 18th chapter of Leviticus, ver. 12 and 13, the intermarriage of nephew with aunt is prohibited. *From parity of reason*, our law has extended this prohibition to the intermarriage of uncle with niece; and the criminal courts have punished the violation of the rule capitally, as incest (case of Strange, 24th April 1649; of Johnston, 8th June 1705). The application of this rule to intermarriage by either spouse in widowhood with the relatives of the deceased, whether by consanguinity or affinity, within the prohibited degrees as thus interpreted, has likewise in various cases been capitally punished as incest by our criminal tribunals (case of Tannahill, 2d March 1725; of Gourlay, 5th July 1626; of Blair, 7th September 1630.—*Report, Second Division*—see title). Nevertheless, a question is understood to have been agitated in private consultations *which was lately brought to trial* in the Consistory Court, whether it was not lawful for a husband, on the decease of his wife, to marry her sister, either of full or half-blood, or *vice versa* for a widow to marry the brother of her late husband. From the foregoing quotation it must, however, be evident that such marriages as are prohibited *must likewise be set aside ab initio*, if a regular action of nullity or of divorce shall be instituted during the lives of any of the spouses. Accordingly, in this shape the Commissioners have given that judgment upon the question, and this decree has been carried into effect without being subject to review.” ‡

After all this, one is astonished that Dr Eadie should have hazarded the following opinion, without more careful inquiry, even on the authority of the Lord Advocate. Dr Eadie says,—“The provisions of Lord Lynd-

* At the above meeting another able speech was delivered on the same side, by Anderson Kirkwood, Esq., another of the ablest and most esteemed lawyers and citizens of Glasgow.

† This, like many other facts, demonstrates that instead of being fettered by the Popish laws of marriage, Protestants formally repudiated them whenever the Word of God permitted them to do so.

‡ “Consistorial Law in Scotland. By James Ferguson, Esq., lately one of the Judges of the Consistorial Court of Edinburgh.” Edinburgh, 1829.

hurst's Act do not, I believe, refer to Scotland, and according to the Lord Advocate, the law of Scotland is not very explicit on the point. It incorporates the Confession, forbids all marriages condemned in Scripture, but as it does not specify them, it leaves us all in uncertainty." This is a very strange assertion, whether it relate to the law or to the Confession of Faith. "Leaves us all in uncertainty," when it declares that a man "may not marry any of his wife's kindred nearer in blood than his own!" Does Dr Eadie mean that it is uncertain by the Confession of Faith and the law of Scotland whether a man may marry his own sister? He adds as a breakwater against this conclusion, "There is no doubt, however, that the Confession gives affinity the same claims as consanguinity, and therefore should the law be altered, the church and state would come into collision for a period. Such a crisis has happened in America," &c. The crisis happened when some States changed their law, by the influence of principles already adverted to in these pages. Surely this is not the way in which a grave divine should deal with so solemn a question.* The alleged opinion of the Lord Advocate, as given in one of those claptrap advertisements so widely circulated by the London agitators on this question, is as follows:—

"Marriage with a Deceased Wife's Sister.—Lord Rutherford, when Lord Advocate, said, in the House of Commons, that 'he had before stated his belief, that if the matter came to be investigated before the courts, it would turn out that the marriage contemplated in this bill was, in Scotland, a lawful marriage; and he had good reason for saying that that was the opinion of an honourable Baronet, than whom no person ever stood higher in the Church of Scotland—Sir Henry Moncrieff. For himself, having come to the deliberate opinion that the marriage in question was not forbidden by the law of Leviticus, he came also to the opinion that the connection was not a crime, and that the marriage was effectual for civil purposes.'"

Any of us is as competent to form an opinion on the meaning of Leviticus xviii. and its bearing on the subject as Lord Rutherford. And after the proofs adduced, no man in his senses will be disposed to place more reliance on the flying opinion of the Lord Advocate as a politician, than on the express words of a law which any man may read, and the opinions of institutional writers, and the decisions of judges in actual cases

* The writer is the farthest possible from wishing to come into collision with Dr Eadie or his brethren on this question; but it would be most unfaithful to what he deems the truth not to say, that when Dr Eadie writes as he does on this question, something more than the very confused statement, made in his letter, on the subject of the Confession of Faith, is necessary to justify both himself and many of his brethren, who have publicly vowed that it is the confession of their faith, in the sentiments they have publicly expressed on this subject. There is no act of forbearance passed in regard to this part of the Confession, and it is most injurious to the Christian ministry, and to Christianity itself, when its ministers profess one thing in their creed, and advocate another thing either in their writings or in the Church courts; and let it be added, such conduct, though it may swell the length of an advertisement, or "help the ungodly," will not add to their authority on any moral question whatever. I must be pardoned, in so grave a question, when I state further, that all true friends of religion in Scotland must lament the very uncertain sound given on this subject by the United Presbyterian Synod in April last, 1853, when an overture was brought before it to have the Confession altered, both as to the marriage of a brother's widow and a deceased wife's sister, and that a motion to let the overture lie on the table to next meeting was lost only by a majority of 62 to 55 in favour of a motion that it was not expedient to discuss the question at present. This should surely open the eyes of the Presbyterian bodies in Scotland to the danger of sleeping while the enemy is busy sowing his tares.

submitted to them. The writer *has reason to believe* that Lord Rutherford, consulted as a lawyer in an actual case, would not give such an opinion ; and this belief he will hold till he see an opinion to the contrary, given by Lord Rutherford himself, on his responsibility as a lawyer or a judge.

But, as usual, the Libertarians are not very scrupulous, even with the Lord Advocate. They had at hand his opinion given in evidence before the Royal Commissioners, but the speech serves them better, and they head their advertisements with it, giving his evidence the slip. The evidence is—“ 1151. You are of opinion that it is not the penalties of the law of Scotland that prevents this marriage, but the feeling of the people themselves ? The feeling of the people themselves, certainly ; but the main thing that prevents it is the idea of its illegality, which has arisen from the opinions of the institutional writers, that in fact it would not be a marriage : and that, therefore, though they might be married by a clergyman, and go through those forms and declarations which, between persons not within the prohibited degrees, would constitute a marriage, being within the prohibited degrees, it would be no marriage, and therefore a state of concubinage, and that therefore they would sustain the loss of their position in society, which arises from that circumstance.” Here it is admitted that the institutional writers declare such marriages unlawful. Their authority is as much to be relied on as the Lord Advocate. Moreover, it has been shown above that the courts have uniformly decided accordingly. What, then, are we to think of these hired agitators or their employers, who pass by the actual evidence of the Lord Advocate, and quote, as his opinion, a mere newspaper report of a speech in Parliament ?

We have thus the testimony of ancient Judaism, of early Christianity, of the Waldensian Churches, of all forms of Christianity till the period of the Reformation, and of all the Reformed Churches and States of Europe and America, against such marriages ; and nothing in their favour from any of these sources, more or less limited, till the progress of infidelity and of its loose morality, and the ignoring of divine revelation as a basis of legislation, opened the way to the indulgence of human passion. For let it be carefully observed, *that the change of the law in professedly Christian countries HAS ORIGINATED IN THE VIOLATION OF THE LAW*, and has been made to cover a PRACTICE, not in deference to eternal truth or morality. All attempts made to disprove the morality of the law are made to cover cases of its actual violation ; and the changes in the proceedings of some churches cannot be traced to any more respectable source. Even the Code Napoleon, on this subject, decreed the 17th March 1803, promulgated the 27th of the same month, and therefore at a time when not much regard was paid to Popery or Protestantism either, declares, ch. i. article 162,—“ In the *collateral line*, marriage is prohibited between brother and sister, legitimate or natural, and the affinity in the same degree.” In 1832, this law was altered to the effect of giving the king the power of dispensation. Why the power of dispensation either in France or Germany, if there is nothing wrong in such connections in their view ? In fact, in whatever country a *dispensation* is allowed, it is not a proof that they consider such marriages lawful, but a clear proof of the reverse ; though they reserve to themselves the somewhat Popish right of dispensing with what is right when they deem it expedient.

The testimony of Mahometanism, civilly or religiously, cannot strictly be

brought under the category of that of the Church, or the relative testimony of human legislation. Yet, as it is a fact that Mahomet had the assistance of renegade Jews and Christians in drawing up the Koran, it may be curious to see what the Koran decides on the subject. In chap. iv. of the Koran, on the subject of marriage, it is said, "Marry not women whom your fathers have had to wife (except what is already past), for this is uncleanness, and an abomination, and an evil way. Ye are forbidden to marry your mothers, and your daughters, and your sisters, and your aunts, both on the father's and on the mother's side, and your brother's daughters, and your sister's daughters, and your mothers who have given you suck, and your foster-sisters, and your wives' mothers, and your daughters-in-law which are under your tuition, born of your wives unto whom ye have gone in, (but, if ye have not gone in to them, it shall be no sin in you to marry them,) and the wives of your sons, who proceed out of your loins; and ye are also forbidden to take to wife two sisters, except what is already past, for God is gracious and merciful." Sale has this note after the words, "Forbidden to take to wife two sisters,"—"The same was also prohibited by the Levitical law."

I do not profess to understand the import of the phrase, "Except what is already past," but it cannot serve the Libertarians in very great stead, as it is applied to the wife of their fathers as well as to two sisters. It will be observed, that the prohibition as to two sisters is express and unqualified, whether in the lifetime of the parties, or otherwise. What, therefore, the Libertarians mean, or what is their authority for one of their so-called "facts!" stated as follows, I do not know: "Fact XII.—The Mahometan law forbids the marrying of two sisters together; but permits marriage with a deceased wife's sister. This marriage is permitted among 90,000,000 of Mahometans." Where the "together" and the "permission" are found, it does not suit them to tell. It is not in this passage in the Koran; neither would it serve their purpose much to tell that each of those said Mahometans may marry, if he can support them, and have a mind for it, as far as any view of morality is concerned, 90,000,000 of wives. As little will it suit their purpose to know that the Chinese, who are about 400,000,000, punish marriage with "a brother's widow with death."* How do they relish these kind of "facts" when pled as arguments? I find nearly 300,000,000 stated as the number of the population of the countries in which such marriages are allowed, in a petition to the House of Lords, supported by no less illustrious a personage than Lord St Germans, and approved by no less grave a personage than Lord Denman. China is an answer to them all. What is the absurdity or wickedness that may not be pled for, and supported by facts and arguments such as this?

I draw this part of the subject to a close by calling on the reader to observe, that whatever weight there is in the testimony of the Church, and the relative testimony of human legislation, so long as legislation proceeded on any respect to the Church, or professed obligation to the Word of God, in its proceedings and acts, it is all on one side: viz., to prove that such marriages were held unlawful. *There is a total absence of proof on the other side.*

It is of more real importance, however, to inquire on what grounds of reason or of Scripture—in other words, of moral obligation—church, or state, or any other, is warranted to hold marriage with the sister of a deceased wife prohibited. This accordingly I now proceed to do.

* See Barret's Code Napoléon, Preliminary Dissertations, vol. i. London, 1811.

CHAPTER II.

THE LAW OF NATURE—WHAT IT IS, AND TO WHAT EXTENT IT CAN BE A
RULE ON THIS SUBJECT.

THE law or light of nature, as an authoritative rule or guide in moral conduct, means the law originally written on the heart of man at his creation—in other words, conscience, or the intelligent moral nature of man in harmony with the moral nature of God. Anything else cannot be entitled to the name of conscience as an authoritative rule of morals. It can have no moral authority to bind to what is contrary to the moral nature of God, or, which is the same thing to us, to the moral law of the ten commandments. The very word “conscience” refers to a rule external or objective to itself. As it is not a lord, but a subject of Jehovah, that rule is God’s law, expressive of his own holy nature. It would be a waste of labour to prove that that law, in its purity and power, is nowhere to be found but in the Scriptures of truth.

The expression “law of nature” is also loosely employed to signify those general notions of right and wrong, to be found among all nations irrespective of divine revelation. The knowledge of these, as traces of God’s original constitution, as grounds of appeal on behalf of God and the right, and as some defence and safeguard to social existence, is of great value; but in so far as respect to the authority and law of God himself is concerned, they only point to an authority which is despised; and serve, in regard to the moral nature of God, an end which his works of creation serve to fallen, corrupt men, in regard to his eternal power and Godhead.—“The invisible things of Him, from the creation of the world, are clearly seen, being understood by the things which are made, even his eternal power and Godhead, so that they are without excuse.”

Any one at all acquainted with the history, customs, manners, religion, and morals of heathenism, knows perfectly how complete and inextricable is the confusion, as tried by the Christian law, of its principles and actings on every point embraced in the law of the ten commandments, and how utterly vain it were to attempt to establish a fixed principle or law as of divine authority, from that source, on any one point of true religion or morals. An inquiry into this source of evidence on the present question can be of little value to determine any thing authoritative on the subject—except perhaps to show that all nations have such traces of the original constitution of God himself, as to prove that there is a law of incest, and that there are at least certain carnal connections with relations by blood and affinity, which all human beings, for one reason or another, abhor. The Apostle Paul, speaking by the Spirit of God, recognises the law of nature to this extent, when he speaks of “such fornication as is not even named among the Gentiles, that one should have his father’s wife”—the word “fornication” being here used to translate the Greek word which denotes all unlawful and carnal intercourse. To this extent Puffendorf himself goes, though he denies that the law of nature determines the unlawfulness of marriages by consanguinity in the collateral line, or marriages by affinity. He says, as to the other degrees forbidden in Leviticus, that it is still more difficult to give any satisfactory reason to prove that marriages

contracted with blood relations to any of these degrees are unlawful by the law of nature. They are found, however, to be detested by many pagans. He then gives the case here quoted, from 1 Cor. v. 1, and the well-known exclamation of Cicero in his oration "*Pro Cluentio*," in speaking of the marriage of a son-in-law with his mother-in-law—"O incredible crime, unheard of in any woman before her!" Grotius held views on this head more stringent than those of Puffendorf, and maintains that certain marriages are forbidden by the law of nature, from the detestation in which they were held by all nations, except the very few who were so thoroughly corrupted as to be an exception to the rest of the world. Of this he adduces many proofs from ancient writers, which it is unnecessary for our purpose to quote. Those who are anxious to see what light may be thrown on this particular view of the subject—viz., the law of nature, whether as derived from Jews or Gentiles—may consult such works as Selden, "*De Jure Naturæ et Gentium Juxta Disciplinam Ebræorum*;" Grotius, "*De Jure Belli ac Pacis*," lib. ii. cap. v.; Puffendorf's "*Law of Nature and Nations*," book vi. ch. i.; and their Commentators.

The writer is of opinion that little more than what he has already indicated can be discovered from the law of nature. As found in existence among the heathen, very little can be authoritatively determined by it as law on this or any other moral subject; because of the universal corruption and deep degeneracy of mankind, of which we have the fearful description in the first chapter of the Epistle to the Romans. Whether anything on this subject could be determined as written on the heart of Adam at his creation, I am not prepared to affirm or deny. The Jewish Doctors held that forbidden degrees had been given to Adam to take effect as soon as the human race had multiplied to a certain extent, exactly in the same way as the laws that regulated the worship of God, the administration of justice, and respect for life and property—that is, as soon as the practical case arose.* Though not prepared to speak positively on such a point, I think there is a difference in this respect between those relations to Jehovah himself which are eternal and essential to Him, and to all accountable immortal creatures as related to Him, and those relations which created beings hold to one another, physically and externally. This seems indicated by our Lord when he says, in answer to the cavils of the Sadducees, that in heaven men neither marry nor are given in marriage, but are like the angels. In respect to marriage, then, the law of nature must be the law of God's first and positive institution; which, we know, was one man to one woman. That God did most certainly interpose His authority at some instant or period of time in a way different from what held in the case of the immediate descendants of our first parents—who, by the command to be fruitful and multiply and replenish the earth, must have fulfilled it in ways which the parties we are now opposing dare not openly affirm is *now* lawful, though their arguments carry it—is most certain. We can gather little, then, from the law of nature in the absolute, abstract sense. We must therefore have recourse to the Word of God.

* See Grotius, "*De Jure Belli ac Pacis*," lib. ii. cap. v. xliii. 5.

CHAPTER III.

THE WORD OF GOD, AND IN WHAT WAY IT IS TO BE USED AS A RULE AND LAW ON THIS AND OTHER SOCIAL QUESTIONS.

Section I.—Old Testament and New the Rule of Faith and Morals.

1. THE whole Bible, Old Testament and New, is still the rule of faith and morals to the Church, as well as the source of divine instruction and consolation. Many Christians may think it very unnecessary to affirm such a proposition. I have a very different opinion. Even on the whole subject of the divine inspiration of the Scriptures, such loose and sceptical views prevail among many professing Christian divines, as to subvert to a very great extent the authority of many parts of Scripture, as an authoritative rule of faith and manners. This is true of some whose opinions on the marriage question are deemed of sufficient weight to be exhibited as authorities to determine men's judgments without farther inquiry. It is impossible to enter on the question of inspiration here. But, unless we receive in its simplicity the authoritative declaration of the Apostle Paul—in other words, of the Spirit of God,—“All Scripture is given by inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness,” I do not believe that on the present or any other question of religion and morals, “the man of God may be perfect, thoroughly furnished unto all good works.” I hold this to be a vital point, and that no one is competent to discuss this subject as one of Bible authority, who does not own and receive the divine authority and obligation of every part of the sacred Scriptures. He may perplex, bewilder, and mislead the ignorant and unwary, and afford to the children of passion and sin, “pillows to all arm-holes,” but he cannot be of any real use to settle the Christian judgment of the sincere inquirer.

2. But beyond this there is another question, viz.—In what way and to what extent is the Bible, including both the Old Testament and New, to be used as a rule and law on this and other social questions? This question I deem most important, as I believe that it is from the prevalence of a large amount of scepticism and unbelief on this head, that many who profess to try the question by the Levitical law, find themselves at liberty to deal with it in a way they would not venture to do, if they really believed that they were still bound to the Old Testament as a rule of faith and manners, both in relation to God and to man. That much ignorance and unbelief prevail on this point it were easy to prove. Proofs will occur in our subsequent discussions, sufficient to show that if the principles affirmed on this head by many of the writers on the Marriage Question be true and well founded, all discussion of particular passages is foreclosed; and we may at once cast aside not only the Old Testament, but all Bible law and authority together. Though prepared to expect much from the parties engaged in the Libertarian movement, I was not prepared to expect such statements as I find contained in a pamphlet entitled “The Men of Glasgow, and the Women of Scotland, by T. Binney, London.” He tells us it was written at the special request of a (so-called) “Free Church Elder,” whose zeal in his vocation has not been small, and whose penetration to dis-

cover a fitting and willing coadjutor has been considerable. It purports to be an answer to an able speech of Dr Symington, of this city, published as a four-page tract. It consists of 68 pages. It is written in a tone of self-confidence, and in a spirit of levity, with which its author may rest assured no portion of "the men of Glasgow, and the women of Scotland," but the "lewd and baser sort," will have any sympathy; and which they will deem altogether unworthy of the subject, and of a minister of the gospel in discussing it. My business for the present, however, is with the sentiments of one or two passages. At pp. 39, 40, we have the following:—

"With respect to Christianity *he* (Dr Symington) *does not go far enough*. He does not seem to apprehend what it proposes to do, and how it aims at it. Instead of telling us that we need a particular precept for everything,—and can know nothing, and do nothing, without the specifications of some 'statute law,'—it is the peculiar distinction of the gospel to impart a new nature, to infuse into the soul a spirit and a life, that make the child of God a law unto himself. Law is not made for such,—it is not necessary; he is taught of God after another fashion; and by the unction of the Holy One, and the instincts, so to speak, of 'the inward man,'—which after the image of God is renewed in righteousness and true holiness,—he is at once taught the things that are pure and becoming, and preserved from falling into the gross and low. Christianity does not come as law, to take men by the hand, lead them along like children or blind persons, telling them, by a distinct particular precept, how they are to step, and where they are to place their foot next; no: it opens men's eyes,—places them in the light,—makes them 'children of the day,'—and produces such a development and such an elevation of their moral nature, that they can be trusted to guide themselves. Does Dr Symington believe that he himself has really no reason for abstaining from certain 'abominations' but the Levitical law?—and that he actually does abstain *because* of that law? *I* don't believe this of him, if he does. His reasoning in support of his first general principle, mistakes and misrepresents three things,—things, too, of some little importance; namely, the moral responsibilities of man without revelation,—the Mosaic institute,—and the Gospel."

Without remarking on the very unfair representation given of Dr Symington's views in this passage, I have to observe, that most certainly if Dr Symington *did* go the length proposed in this passage, he would "go far enough," and something more. The questions here put to Dr Symington are altogether irrelevant, and aside from the subject. The question is not, What is the feeling of Dr Symington, or of any Christian man; but, What *is* the law of God? Not what Dr Symington, or any other man may or will do. The Bible leaves us in no difficulty as to what is the use of the law—viz., that which is the use of all laws, in the first instance—to curb and restrain the unruly and the vile—"But we know that the law is good, if a man use it lawfully; knowing this, that the law is not made for a righteous man, but for the lawless and disobedient, for the ungodly and for sinners, for unholy and profane, for murderers of fathers and murderers of mothers, for man-slayers, for whoremongers, for them that defile themselves with mankind, for man-stealers, for liars, for perjured persons, AND IF THERE BE ANY OTHER THING THAT IS CONTRARY TO SOUND DOCTRINE, according to the glorious gospel of the blessed God." It is to stand as a warning and condemnation of them all; and God has declared that terrible punishment will follow its violation, let the violators be who they may. It is perfectly true

that the New Covenant promise, in regard to all the people of God, is, that "God will put his law in their hearts, and write it in their minds;"—but it were a strange use of this promise to say, that it absolves from the strict and literal observance of the law; still more, that it effaces it from the Sacred Record as the perfect rule and standard of morals. This were emphatically to turn the grace of God into licentiousness. Christianity is as much a system of precepts as of doctrines—of rules for the outward life, as of principles to govern the inner life. The light and power of the Spirit given to the Christian is the light and power to see, believe, and obey what is written; to receive "the incorruptible seed of the Word," and to "live thereby." The law is not made against (*ou xairai*) such an one for his condemnation, because he is freed from it through the blood of Christ. Its end is "love out of a good conscience, and faith unfeigned." "Do we then make void the law through faith? God forbid, yea, we establish the law." Any assertion of an "inner life," separate from "the incorruptible seed of the Word," and its ruling power, is pure, unmitigated fanaticism and antinomian licentiousness. It is the very essence and spirit of the views and conduct of the Munster Anabaptists; who not only held these very views, but carried them out in loathsome practice, till outraged society was compelled to restrain them. Men as good and pure as any who hold such enthusiastic notions believe that so vile and deceitful is the heart of man, and so strong the remaining power of sin in the best, that but for the plain announcements and express condemnation of particular sins, by particular names and particular precepts, even good men would be led into grievous sins. Good men were so of old, and in this respect there is nothing new under the sun. Every good man is thankful that he has the law of God as a beacon as well as a guide. The philosophy of Mr Binney's sentiments is as bad as their theology and morals. For how in reality does the law of gratitude and love, the inner life of the Christian, operate when he is tempted? Just as it did in the case of Joseph,—“How shall I do this great wickedness, and sin against God?” How is he to know sin against God? Just as Paul did,—“I had not known lust except the law had said, Thou shalt not covet.” A little of the spirit of Paul would prevent much self-complacency in the security of the “inner life” as a guide in conduct, even in the best, not to speak of its “development” in “English society.” It made him cry out, “O wretched man that I am, who shall deliver me?” The theology of old Manton on this point is infinitely to be preferred to that of Mr Binney. On Hebrews xi. 7,—“Noah warned of God,” and exercising faith on the *threatenings* of God, he says,—“We may make use of the Spirit’s argument without sin. Usually men, instead of being over-spiritual, grow over-carnal. Terrors and threatenings are propounded to us to drive us from sin, even to men that are assured of God’s love. Though we have an indefeasible right in the great inheritance, yet we must look upon the Lord as a consuming fire,—Heb. xii. *ult.* The Lord would help our infirmity this way. This argument is of most force, because the Spirit of God argues and discourseth in the heart of believers just as He argues in the Scriptures. Now, thus the Spirit argues in the Scripture; and therefore the Word of God is called *the sword of the Spirit*,—Eph. vi. 17. In all your inward combats, or the civil wars of the soul, the renewed heart makes use of Scripture arguments; and in Scripture, as God encourageth with love, so He aweth with threatening.” He then shows that this was true of Noah, Job, Paul, and other holy persons; and it is much to be doubted if

the developed spirit of "English society" is much in advance of any one of these holy men, and if it is not true, as Manton says, that "the devil is as subtle, and our corruptions as strong, as ever."* The very commission to preach the gospel concluded thus,—“Teaching them to observe ALL things whatsoever I have COMMANDED you.”

But the author of this pamphlet is not content with the plain-speaking already quoted. He returns to the sentiment in another form. At p. 52 there occurs the following passage, which, though long, is too instructive to be curtailed. After rejecting "*Moses*," as judge, in other words, God, who spake by Moses for whatever purpose he did speak, he comes to "THE ARGUMENT CONCLUDED," and asks, "*And who is that Judge?*" and answers, "*Ultimately*, Christ, or Christianity:—*mediately*, enlightened, purified, Christian intelligence;—the reason and conscience of society, as influenced and affected by the Church;—the reason and conscience of the Church, as quickened, elevated, and developed by the *spirit* of the gospel. We have no Christian *law* on the subject,—and we need none. Christianity is not so much an outward, prescriptive law, as an inward, directing life. It is not a letter, but a spirit. It is intended to make man a law unto himself, by so making him 'a partaker of the divine nature,' that he shall instinctively love all that is just, pure, and becoming; and shall do them, not because he thinks of them as enforced by command, but because he feels himself drawn to them by an inward necessity. The question really is with us, in respect to many things, not what the Mosaic law either commanded or tolerated,—for we feel that we have liberty to neglect the command, and *not* liberty to take the toleration,—but, what is most in accordance with the spirit of Christianity—revealed by its light, nourished by its influence—that can live in the atmosphere breathed by the Church, and be felt to be in unison with the promptings and impulses of the new nature? In the case before us, the first question appears to me to be this,—To the spiritual feelings, and holy or purified instincts of Christian men, does the permission of marriage with a deceased wife's sister present itself in the same aspect as the toleration of slavery to the Jew, or his permitted facility of divorce? Then the second question is,—In the present condition of English society, according to our habits of social intercourse, in consistency with the advantages which we have reaped, as a people, by the long existence of Christianity in the midst of us, and, in the view of the known or the probable results of the allowance or disallowance of the marriage in question,—does modern delicacy, a healthy, moral tone of mind, or instructed common sense, revolt from the approval or tolerance of this marriage, and demand the interference of civil and secular legislation to prevent it? These are the real questions at issue; they are far more important than any investigation of the 18th of Leviticus; and the answers to be held as returned to them by the right of authority are more to be regarded than anything that can be gathered from the laws and institutions of a distant age, many of them confessedly adapted to 'the times then present,' and to the loose notions and low standards of a half-civilised people."

It will be observed that the reasoning, or rather declamatory sophistry of this passage, goes to the repeal of all laws, not only against all crimes arising from the lusts of the flesh, against adultery and incest of every degree, but crimes of every dye which are forbidden in the law of Moses.

* Manton's Works, folio, vol. iii. p. 300.

If Mr Binney will help to keep quiet the consciences of the men of England, who have broken at least the law of their country, we are thoroughly persuaded that such views will make the men of Scotland hesitate before they follow their example.

On this writer's view of law, "we have no Christian law" on any subject. What does he mean when he tells us "we have no Christian law on the subject?" Does he confine the term "Christian" to what is contained in the New Testament? If he mean that the whole law of God, as contained in the Old Testament, is abolished, he contradicts the express words of our Lord Jesus Christ himself, who said, "I came not to destroy the law, but to fulfil it." If he will show in what way our Lord fulfilled the Levitical law on the subject in hand, so as to relieve men from the obligation to obey it, he will do something to his purpose, but not otherwise. In the meantime, we pronounce this line of statement to be a most shocking perversion of the gospel of the grace of God. On his principle, if Moses be rejected, the only shadow of revealed law on the subject of incestuous connection that remains to bind, not only Christian men and believers, but any man whatever, is that which declares—1 Cor. v. 1—that the very heathen abhorred such connection with a step-mother. In regard to all others, "we have no Christian law on the subject!" What notions this writer holds of Christ as the King and Lawgiver, as well as Priest of the Church from the beginning, or how he believes that he is Jesus Christ, the same yesterday, to-day, and for ever, it is not easy to understand.

If the questions put in this passage by Mr Binney be "the real questions at issue," and if they are to be decided by the spirit of English civilization, he might have spared himself and his readers the trouble of his first fifty pages. But the "men of Glasgow and the women of Scotland" are not yet prepared to prefer the "present condition of English society," as a standard of morals, on any one subject whatever, to "the laws and institutions" of God himself, even though he gave them "in a distant age" to a people "half civilised;" but of whom, when they received them, he said, they would be "a wise and understanding people above all people." I protest against the views expounded in this latter passage quoted from Mr Binney, as a miserable compound of German Neology and Antinomian enthusiasm, as well as of ill-concealed Popery. Strange to say that the Independent minister is to find, not his law, for he is without law, but his "directing life" in "the reason and conscience of the Church, as quickened, elevated, and developed by the *spirit* of the Gospel!" What is this development then? Where is it? Who can fix it? Who can see it? What is this notion but the downright Popish principle of the authority of the Church? And what is this authority practically but the Priest? Or, in Independency, but each man a law unto himself? Dr Newman and Mr Binney meet in this theory of development; and if Mr Binney progress in seeking for another standard than the objective Word and Law of God, they may yet meet in a more practical harmony still. I doubt much if the civil government of this country will consent to exempt, by any formal repeal, even Mr Binney or any who hold his views, from the operation of the laws founded on the fifth, sixth, eighth, ninth, or even seventh commandment. His principles are subversive of all law whatever, in a nation calling itself Christian. They may be accepted, however, as a proof both of the weakness of his cause, and of the lengths to which

those who support his views on the Marriage Question are prepared to go in order to carry their objects.

It is not surprising that such men advocate the abolition of all Sabbath laws, and laws for the encouragement of religion. If God's eternal laws did not traverse man's wisdom, these men would make life a very pleasant thing, in the Epicurean sense of pleasure.

3. But that the Old Testament is still a rule of faith and manners to man, in his social as well as in his individual relations, is manifest from a variety of considerations, to which I can point only generally. They are such as these: That the law (see Exod. xix.) was addressed to the Israelitish nation, embracing all social relations; that it was founded on universal principles; and that other nations were dealt with on the footing of the same moral principles as the Israelites. God appeared to Moses, and sent him to Pharaoh and the Israelites in Egypt, in the very same character in which he revealed his laws to Israel—as the I AM, Jehovah, having an equal claim on Israelites and heathens before, as after, the giving of the law from Sinai. Jeremiah and other prophets were commissioned to be “prophets to the NATIONS.” God spake to the Jews, not as “God of the Jews only, but of the Gentiles also.” Our Lord and his apostles settled questions in dispute on the simple authority of the Old Testament. The New Testament was not the revelation of new truths and morals, but the full development of old. Paul, in particular, established the whole doctrine of the Epistle to the Hebrews, not by a new revelation, but by the doctrines of the Old Testament, which the Holy Spirit, by him, divinely interpreted. The moral law of the Ten Commandments itself is not in form reaffirmed in the New Testament, but referred to and cleared from the perverse and false glosses of the Jews, and enforced by clearer sanctions; and we have this express declaration of the Spirit by Paul—Rom. xv. 4—“Whatsoever things were written aforetime, were aforetime (with this express design) written for our learning.” What things were temporary and to be removed was aforetime declared, as Paul shows, in the Old Testament itself; but the laws affecting man's social moral relations are none of them. Besides, if the Old Testament is rejected as an authority, we have no code of general social duty and morality in regard either to God or man, and particularly in the matters relating to the present question; while on the very point of marriage and its duties, the principles and laws are derived by our Lord and his apostles from the Old Testament. The proof of this will appear in the sequel.

Unless, then, we are to subvert and reject all divine revelation together, it is plain that we cannot, by a mere summary repetition of the words “ceremonial,” “judicial,” “Christian,” or “Gospel,” get quit of the Old Testament.

Section II.—General Bearing of the Levitical Law.

In regard to the laws revealed from Sinai, and embracing the Levitical law, in so far as it had respect to social and moral relations that exist in all nations by the constitution of humanity itself, they are still binding and have never been repealed, directly or indirectly. I am not disposed to believe that they were made known for the first time only, when revealed at Sinai. I think there are indications and proofs—and in regard to the Sabbath law, referred to in Exod. xvi., as well as in Gen. ii., it is certain—that

they were binding from the first, not only when directly referring to God, but when referring to man in his social relations. Another proof of this last point is that contained in Leviticus xviii., which, in its sanctions and threatenings, refers to the crimes of the heathen, who, to make them crimes, must have transgressed a law, because "where no law is, there is no transgression." In a word, if the law of God thus revealed is not binding, there is neither law of marriage nor of incest at all. This ought, at least among us, to make men consider what they do or say on such a subject. The whole of this part of the subject, and indeed the whole Scripture argument, is treated of in the most masterly way by the American lawyer, Dwight, in his "Hebrew Wife;" and it is a curious circumstance that the hireling advocates, and vain zealots, who write and speak in defence of those worthies, whose "hopes," as Mr Sleigh naïvely confesses, are "concerned in the issue of the present movement," take special care never to mention Mr Dwight's admirable treatise at all. If it were sufficiently known in this country, it would not be necessary to enter on the Scripture argument. I do not think it can be improved. To abridge it is to injure it. The great difficulty I feel in entering on the Scripture argument, arises from being compelled to exhibit one more brief and defective than one already before the world. But as I am anxious that this work should embrace the general subject, so far as it has hitherto been discussed, I must submit to this disadvantage. While I have formed my own independent judgment, and treat the subject in my own way, I entreat all who wish to have their minds thoroughly settled on a scriptural basis to examine Dwight's "Hebrew Wife" for themselves. I assure the opponents that, until they fairly meet and answer it, point by point, no man who knows anything of the question will give them credit either for sincerity or honesty.

Section III.—Argument from Leviticus xviii.

I come now to notice the 18th chapter of Leviticus, which contains the law and the principles of the law. Other portions of the book intimate the penalties of transgression, and other portions of the law regulate certain specific matters which may require to be noticed in their place. No one who has any competent understanding of Bible principles can read this chapter without being struck, in the first place, with the assertion of the authority on which it proceeds, viz., the same as in the law of the ten commandments, which, I must assume, those who can be scripturally reasoned with, admit to be binding on all men. Moses is commanded to "speak unto the children of Israel, and say unto them, I am the LORD (JEHOVAH) your God;" and the same again, verses 4, 5, "Ye shall do my judgments, and keep mine ordinances, to walk therein: I *am* the LORD your God. Ye shall therefore keep my statutes, and my judgments: which if a man do, he shall live in them: I *am* the LORD."—All expressions based on the essential authority of Jehovah, the I AM, the eternal God, Ruler, and Judge of the world, besides declaring that the *man*, not the Israelite merely, who doeth them shall live in them. In the second place, it will be observed that the things condemned have respect, not to things future and ceremonial only, but to crimes committed by the Egyptians, among whom they had previously dwelt, and by the Canaanites, among whom they were about to dwell—crimes then in the eye of the moral law of God, the Governor among the nations, and for which they were punished and exter-

minated ; and to talk of either ceremonial or judicial in relation to them, is a manifest rejection of Scripture and common sense. After the crimes, which were crimes before, are enumerated, it is added, in the most solemn and awful manner, Lev. xviii. 24-30, "Defile not ye yourselves in any of these things : for in all these the nations are defiled which I cast out before you. And the land is defiled : therefore I do visit the iniquity thereof upon it, and the land itself vomiteth out her inhabitants. Ye shall therefore keep my statutes and my judgments, and shall not commit any of these abominations ; neither any of your own nation, nor any stranger that sojourneth among you ; (for all these abominations have the men of the land done which were before you, and the land is defiled ;) that the land spue not you out also, when ye defile it, as it spued out the nations that were before you. For whosoever shall commit any of these abominations, even the souls that commit them shall be cut off from among their people. Therefore shall ye keep mine ordinance, that ye commit not any one of these abominable customs, which were committed before you, and that ye defile not yourselves therein : I am the Lord your God ; " once more winding up with the great principle of authority, "I am Jehovah *your* God." Language cannot more clearly intimate that they were crimes, whether committed by Gentiles or by Israelites, and were and are an abomination to JEHOVAH.

Language could not be devised more universal and comprehensive, either as to the crimes enumerated or the persons included :—"Any of these things," "any of your own nation, nor ANY STRANGER that sojourneth among you." More awful punishments could not be denounced ; and any one who has any reverence for God's Word will be slow indeed to incur the hazard of meriting them on any mere doubt as to the point under debate. Doubt is not admitted as any ground of action where God's law is concerned. Even in a matter of indifference, if a man doubts he must abstain—"for he that doubteth is damned if he eat, for whatsoever is not of faith is sin."—(Rom. xiv.) And in a matter of God's law, if he sin, whether he doubt or no, he alone must bear it. He incurs the curse denounced upon transgressors.

Grotius felt the force of the above considerations ; and let it be observed that he is not discussing what is or is not forbidden in Lev. xviii., but what is or is not forbidden by the law of nature ; and what can be deduced from Leviticus to solve this latter question. He says, "A question follows concerning all the degrees of affinity and consanguinity in the transverse or collateral line, especially those which are expressly stated in Lev. xviii. For it being even conceded that these were not interdicted by the mere law of nature, they may seem to have come to be forbidden by the command of the divine will ; nor that that was a command which binds the Hebrews only, but all men, seems to be collected from those words of Moses, Lev. xviii. 24, 25, 27, (above quoted.) For if the Canaanites and their neighbours sinned by acting thus (contracting such marriages), it must have been that there was a *preceding law* ; which, as it was not the mere law of nature, it remains that the law had been given by God either to them in particular (which is not likely, nor do the words bear it), or to the human race, either at its first constitution, or at its restoration after the deluge. But such laws as were given to the whole human race do not seem to have been abrogated by Jesus Christ, but those only which served to separate the Jews from other nations were removed. Besides that, Paul so severely expresses detestation of the marriage of a step-son with his step-mother ; while, never-

theless, no peculiar precept of Jesus Christ concerning it remains, nor does he use any other argument than that such connection was held impure even among the heathen." Grotius then gives proofs from heathen writers. He argues that among the heathen there must have been some old tradition of their being prohibited, since they were styled "*crimes*." In further illustrating the question of natural right, he does not say that the marriage of two sisters in succession is not forbidden in Lev xviii., but that it does not seem to be forbidden of *natural right*, and that this seemed to have been the idea of the "very ancient apostolic Canons," because all the penalty which they imposed on a man who married two sisters in succession, or a niece either by brother or sister, was exclusion from being a clergyman.

Grotius here finds himself met by his own preceding statement as to the law of nature, as indicated by Lev. xviii. 24, 25, 27. But he adds that it is not difficult to meet that objection, as that statement, although universal, might be held to apply to some of the more atrocious crimes, and that, after the manner of the Hebrews, other prohibitions were added as out-works, "*præmunimenta*," as the Hebrews say, against these. And he adds, that one proof that this must be so is, that Jacob was "married to two sisters," which he does not believe could have been the case with so pious a patriarch, had it been forbidden by the law of creation. He does not give an opinion that such a marriage is not forbidden by the law of Leviticus, but by the law of the creation; and the reason for the difficulty is his perfect confidence in the character of Jacob,*—a confidence which is not warranted by the whole of his previous conduct. But if Jacob's piety was good to prove one thing, why not to prove another? If his piety is good to prove that he could not have violated the law of creation in taking two sisters to wife at the same time, why is it not good to prove that there is nothing wrong in any other man doing the same? And if so, then the law in Lev. xviii. 18, as interpreted by the Libertarians, is unnecessary, and a wanton interference with natural right, whether as understood of two natural sisters at one time, or of any two other women. At all events, Grotius, whom many others have followed in this, is plainly not warranted to limit the principle of the passage to such special crimes as he chooses to select. The language is too definite to admit of such liberty. It is "*any of these things*." It is plain, that whatever things are forbidden in this chapter were crimes among the heathen, and must have been things altogether independent of either the ceremonial or judicial law of the Jews as such, and are crimes by whomsoever perpetrated. If, as many argue on this question, all the acts of the men to whom God had shown favour are to be held innocent, then there will be no such thing as crime at all; and if, on the other hand, God had never conferred his favours on any that had broken his laws, then the whole human race should have been left irremediably to perish. For those who believe in the Word of God, and in the curse denounced upon transgressors of the Christian law even in heart, as interpreted by our Lord in Matt. v., vi., vii., and in other parts of the New Testament, as well as of the Old, will not believe that God entered into covenant either with the Israelites, or their "fathers Abraham or Jacob," for their "righteousness' sake." He Himself told them the very reverse.

It is not out of place to remark here, and it is a most instructive fact, that so far are either the interpretations or actings of modern or ancient Jews, in *their rejection of any part of Leviticus xviii. as a prohibition of*

* See Grotius, "*De Jure Belli ac Pacis*," lib. ii., cap. v., sec. xiii., xiv.

such marriages, from being a proof that they are lawful, that the Jews are, in their present condition—broken, dispersed, and “a hissing and a proverb to all nations”—a proof that “God is true, and every man a liar.” In so far as they have followed in the steps of the Canaanites, they have suffered, as God threatened they would, the same punishment, and the land has vomited them out. The condition of the Jews in their present state is no encouragement to follow, but an awful warning to avoid, their example in practising the sins of the heathen, and making void the Word of God by their traditions.

When it suits the writers on the other side to exalt the authority of Abraham and Jacob very high, in order to get quit of an actual decision of God's Word, nothing is heard of them but that they are men of such signal piety that they could not be conceived to do anything wrong. When a different point of view in their character suits their argument, they forget this respect altogether, and turn them into ridicule without scruple. Thus Mr Binney says,—“Abraham consoled himself with Keturah, though, at his age, and as the father of Isaac, widowhood would have sat upon him with more dignity.”—(P. 19.)

I may notice here, in one word, an argument of Mr Binney against the universality and permanency of the law in Lev. xviii., viz., that as the punishment of death is annexed in Deut. xx. to some of the crimes forbidden in this chapter, if the law be permanent, so must the punishment be permanent also. Be it so; that will not settle the question whether it be permanent law or not. But it does not follow that because forgery is not now punished with death in this country, as it was not long ago, therefore forgery is no crime, and is not forbidden by the law. Besides, the law in Lev. xviii. is laid down on strictly universal principles, which cannot vary. But the punishment is annexed in another place altogether, and may be judicial; but whether it be so or not, we cannot, to escape a consequence which, however severe in our estimation, is not severer than the eternal condemnation pronounced on the breaking of God's law at the first, feel ourselves warranted to reject the law itself. This would make short work with the law of God. But we trust that Christians are not yet prepared to receive Mr Binney's notions of the law in relation to Christians.

Section IV.—To whom, and on what principles, the 18th Chapter is addressed.

All its laws are addressed to the man, as head of the woman, as I think all the general moral laws applicable to the race of man are in the whole Word of God. This arises from the very first principle of the creation of the race—the woman being made out of the man; and in relation to marriage, they are “one flesh,” and whatever is forbidden to the one is forbidden to the other, and whatever is permitted to the one is permitted to the other. As the whole controversy hinges on this point, it is most important to mark it. It is clearly expressed in verses 8, 16, and 20 of Leviticus xviii., where the nakedness of the one relation, male or female, is held to be that of the correlative male or female. This doctrine of the unity of man and wife pervades the Scriptures. You have it in Gen. ii. 24, Mal. ii. 15. It is reaffirmed by our Lord, Matt. xix. 4–6, and used as a first principle of reasoning in the enforcement of purity by Paul in 1 Cor. vi. 16, and in Eph.

v. 23, 31, as to the duties of husband and wife, they being thus held to be one person—and consequently *affinity* and *consanguinity* are in this question one and the same thing; in other words, the doctrine of the Westminster Confession of Faith is true and authoritative, viz., “The man may not marry any of his wife’s kindred nearer in blood than he may of his own, nor the woman of her husband’s kindred nearer in blood than of her own.” There can be no manner of doubt that in this chapter the principle of affinity is recognised as constituting a ground of prohibition as much, *at least*, as that of consanguinity. Every one but those who wilfully shut their eyes has noticed the remarkable fact, that in the seventeen instances of prohibited degrees given in the chapter, *eleven* are cases of affinity, and only *six* are cases of consanguinity. So far, then, our argument is clear and, I think, unassailable on any ground of reasons derived from Scripture.

Section V.—On what principle, as applicable to the present question, the 18th Chapter of Leviticus is to be expounded.

The next thing we have to notice is the principle of the prohibition applicable to all the cases. It is found in verse 6,—“NONE of you shall approach to any that is near of kin to him, to uncover their nakedness.” This prohibition is universal—“NONE of you.” If this principle be applicable to the man, it is applicable to the woman to the same extent, otherwise there is no general principle applicable to the woman in this respect at all. Besides, it springs from the general principle of identity or unity of person, in interest and relation, and of responsibility in the husband and the wife. It is enjoined on the authority of Jehovah, God over all, blessed for ever. Taking the fact that *eleven* degrees by affinity, as well as *six* by consanguinity, are prohibited after this general principle is announced, they must be held as instances and examples both of the principle of the prohibition, and what nearness of kin is. I have met with one curious instance, in which a hired official—who says he is intrusted with the “hopes” of the very virtuous parties who, to gratify their passions, have, without even the plea of a false conscience, and in disregard of God’s Word, which enjoins obedience to “the powers that be,” broken the law of their country, and are fighting hard to get quit of it by squaring the law of God to suit their case—as every criminal secretly, if not avowedly, tries to do—attempts to prove that nearness of kin is applicable only to the nearest blood relations, and so leaves the door wide enough. He assails the Bishop of Exeter with as much flippancy as insolence for misquoting Scripture on the point. Let us see if he is quite honest in quoting it himself. In a letter to the Bishop of Exeter on the subject, Mr W. Campbell Sleight rates the Bishop very roundly for misquoting Jeremy Taylor. With this part of the controversy I do not intermeddle. But Mr Sleight says :—

“Pray, my Lord Bishop, turn to your Bible, and open Leviticus xxi. 2, 3. Your Lordship did not think it prudent to trouble the House of Peers with this passage, containing, as it does—not indeed any mere ‘*rule of interpretation*’—an explanatory declaration, in clear, lucid, and unambiguous terms (as it were in anticipation of modern dogmatists and polemics) of those relations which were to be considered as coming within the definition of ‘*near of kin to a man.*’ ‘But for his kin *that is near unto him* [the very words used in Leviticus xviii. 6], that is for his mother, and for his, father, and for his son, and for his daughter, and for his

brother, and for his sister,' &c. These relations, my Lord, are those which the Lawgiver declared to be *near of kin to a man*.*

Now, it so happens that the words "*that is*" in the 2d verse are not in the original at all, and to show this, they are printed in our Bibles in *italics*; but Mr Sleigh quotes them in good round and broad type of the Roman character, as if they were a divine definition, and proceeds on this false quotation to rate the Bishop very sternly for an alleged similar iniquity. Any one looking to the chapter, Lev. xxi. 2, 3, will see that it has no bearing on the question; and the passage would read better without the italic. It is as follows:—"And the Lord said unto Moses, Speak unto the priests the sons of Aaron, and say unto them, There shall none be defiled for the dead among his people: but for his kin that is near unto him, *that is*, for his mother, and for his father, and for his son, and for his daughter, and for his brother, and for his sister a virgin, that is nigh unto him, which hath had no husband; for her may he be defiled." It will be perceived that the passage refers to the ceremonial defilement of the priest with a dead body, and has no reference whatever to the present subject, but has a permissive clause, in the case of the relations specified, to a priest, who is forbidden in other cases to defile himself with a dead body, one of which excepted cases is in favour of "a sister a virgin, *who hath had no husband*." Does this man mean that, when she has had a husband, she ceases to be near of kin to her own brother? All that the phrase indicates here is, that with certain near relations the priest might touch their dead body. It will generally be found that men's insolence is in proportion to their ignorance, and of none is this more true than of the writers of this class.

I have often thought how remarkable it is that, of the strangest and most fanciful inventions of error in regard to Bible truths, you find the contradiction in the Bible itself. We are not without one in the present instance. That the phrase, "near of kin," does not denote blood-relationship alone, is clear from the following passages:—(Ruth ii. 20), "And Naomi said unto her daughter-in-law (Ruth the Moabitess), . . . the man (Boaz of Bethlehem-Judah) is near of kin to us, one of our next kinsmen." Again (iv. 14, 15), "And the women said unto Naomi, Blessed be the LORD, which hath not left thee this day without a kinsman, that his name may be famous in Israel: and he shall be unto thee a restorer of *thy* life, and a nourisher of thine old age; for thy daughter-in-law, which loveth thee, which is better to thee than seven sons, hath born him." Here is Naomi, who, in virtue of her marriage to Elimelech, the kinsman of Boaz, called, chap. i., "a kinsman of her husband's," calling herself kinswoman of Boaz, and Boaz kinsman of her Moabitish daughter-in-law; while the child of Boaz and Ruth is called by the women her "kinsman;" and among the whole party there is no blood-relationship whatever, except with the parents and the child. They are kindred by affinity. So much for this ingenious rule of interpretation, or rather "clear, unambiguous explanatory declaration" of Mr. Sleigh. Nothing can bring out more clearly the principle of nearness of kin by affinity than this instance in the book of Ruth. The special degrees of "nearness of kin" prohibited are to be next ascertained by the special texts included under it.

In the meantime, I am tempted to give one other instance of their style of

* Lord St Germans, in his authorised published speech, uses the same argument. Whether his Lordship held his brief from Mr Sleigh, or Mr Sleigh held his brief from his Lordship, I cannot say; but their argument is evidently coined in the same mint,—or rather is the same coin.

argumentation on this point. This advocate holds that the proof is clear that "nearness of kin" has respect only to consanguinity, because in Lev. xviii. 6 the phrase is "near of kin to HIM"—the man. He says—

"I invite your Lordship's serious attention to the peculiar phraseology here made use of—'near of kin to HIM'; there is no opportunity to misapprehend the meaning of the Lawgiver; he prohibits the 'approach' of a man to any who is *near of kin* TO HIM, or, in popular language, nearly related to him by blood. And it is well worthy of remark, that the prohibition is addressed specially to the *man*, and not generally to male and female, as the prohibitions of the decalogue; and further, no mention is made of any *not so related* TO HIM; nothing from which we could deduce a prohibition to approach any near of kin to a wife. Thus, then, with the literal meaning of the phrase 'near of kin' (*flesh of flesh*—consanguineous relationship) before us, I apprehend we *dare not*, my Lord Bishop, consider the prohibition as applicable to any but to those *consanguineously related to the husband*. A wife's sister most clearly is not so related to her sister's husband; ergo, the prohibition in ver. 6 cannot possibly apply to *her*, or her relations.

I do not now call more special attention to the cases of affinity prohibited in the chapter. But I call attention to the phrase, "*as the prohibitions of the decalogue*." Of course he affirms that these prohibitions are not addressed to the "*man*;" though the passage is so constructed that it may or may not mean this. Without dwelling on the word "*thou*," which certainly is somewhat different from "*ye*," and cannot, but by the implication of the man being "*the head of the woman*," apply to both, what, on this assertion, are we to make of the command in the decalogue, Exod. xx. 17, "*Thou shalt not covet thy neighbour's wife*?" I suppose, on the method of interpretation followed by these men, a wife may covet her neighbour's husband, because the command is only addressed formally to the *MAN*; and this will be held an exception to the general law, and the woman, they might hold, is free from it. Really it is difficult to believe that any man from whom such a statement proceeds can look upon the Bible in any other light than that in which he looks upon any material thing which he may shape or form as suits his fancy or convenience; and it is sad to see such men spreading their wretched perversions of the Word of God over the land, by the funds of the wealthy breakers of the law both of God and man.

Another point is still general, viz., that a man is undeniably prohibited from marrying his own sister, either full or half, (Lev. xviii. 9); and by the general principle, already proved, he is equally forbidden to marry the sister of his wife, for he and his wife are one flesh. This, we have seen, is the doctrine of the Reformers, and of our civil as well as ecclesiastical law.

Section VI.—*Special Texts of Scripture.*

I come now to a consideration of the special texts. Our general principles, so far as we have gone, are unassailable on any ground of Scripture principle or fact. Let us now come to the particular texts. Here it is of some consequence to observe carefully where the strength of the argument founded on, on this part of the subject, lies; because it is a trick of the adversary to divert attention from this, and to run away with discussion on a text, which, even on their own showing, does not have directly on the point at all, and which, as I think we can show,

bears on it neither directly nor indirectly, exceptively nor otherwise, but bears on the subject of polygamy—I mean, Lev. xviii. 18. There is nothing more painfully discreditable than the constant recurrence of this practice, in several instances, in the evidence of several of the witnesses, even clerical witnesses, before the Royal Commission appointed in 1847. It betokens a degree either of culpable ignorance, or of wilful perversion and concealment, most reprehensible. In the meantime, let us attend to Lev. xviii. 16, and see if we can ascertain its fair import and bearing on the present question in harmony with the principles already ascertained. It is as follows:—"Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness." See also Lev. xx. 21, "And if a man shall take his brother's wife, it is an unclean thing; he hath uncovered his brother's nakedness: they shall be childless," as threatened in the case of the man who uncovered the nakedness of his "uncle's wife," or aunt by affinity. That this was deemed no light punishment, we learn from the doom pronounced on "Coniah the son of Jehoiakim king of Judah," when driven into captivity, and the "earth" is thrice called to listen to it—Jer. xxii. 30,—“Thus saith the LORD, Write ye this man childless, a man that shall not prosper in his days; for no man of his seed shall prosper, sitting on the throne of David, and ruling any more in Judah.”

I take for granted that the expression "shall take" has reference to marriage. The expression "brother's wife" means brother's widow, in the ordinary language of men, as we have seen it uniformly did in the early laws and canons, both of the church and of the state; and as in fact it does in all laws and languages. I cannot do better, on this point, than give the following extract from Mr Dwight, pp. 60, 61:—

"Fifthly, Where the law of incest forbids marriage with the wife of an individual, it really forbids it with his widow.

"There are four female connections expressly mentioned in the law, as the wives of given individuals: a father's wife, a son's wife, a brother's wife, and an uncle's wife. It has been strenuously contended that, as the word wife is here used, and not widow, that wife and not widow is intended; and, of course, that it was lawful to marry either of these connections, when they became widows. In support of this position it is said, that mere affinity is the sole ground of the several prohibitions, that the affinity ceases in each case with the life of the respective husband, and that the prohibition therefore ceases at his death. Thus, it is said that a step-mother ceases to be related to her step-son as soon as her husband is dead; but why the propinquity then ceases, has not been explained. What, then, let me ask, originally constituted that propinquity? Plainly the fact, that the father—*consensu atque concubitu, qui faciunt nuptias*—had consummated marriage with her. In the language of the law, she then became one flesh with him, or had his propinquity. As soon as this became a fact, the propinquity was complete. But when this once became a fact, it could never be otherwise than a fact; and, of course, the foundation of the propinquity between the step-mother and the step-son could never cease. Neither the father's death, nor the subsequent marriage of the step-mother, could affect it; because neither could affect the pre-existent fact of their marriage, which was the foundation on which it rested. My sister does not lose the propinquity which she has in common with me, either at my father's death, or at her marriage, because her propinquity is founded on a pre-existent fact, which can never cease to be a fact.

"The scriptural writers, in pointing out correlatives by affinity, in all cases use the word wife, and never the word widow, when they are actually speaking of a widow. Ruth iv. 5, 'Buy it of Ruth, the wife of the dead.' 2 Sam. xii. 10, 'Thou hast taken the wife of Uriah.' Matt. xxii. 25, 'The first died, and left his wife.' Acts v. 7, 'Ananias' wife, not knowing that her husband was dead.' Such was the common parlance of the Hebrews, the Greeks, and the Romans; and such is that of the French, the Germans, the Spaniards, and the Italians, as well as of the English. In their versions of the Scriptures they never introduce the word widow in such cases. Nay, those with whom I contend have confessed, in a manner not to be gainsaid, that this is the only fair construction of the law; for, in stating the question now in debate, they always ask, 'Is it lawful for a man to marry his brother's wife?' and never his brother's widow;—'Is it lawful for a woman to marry her sister's husband?' and never her sister's widower.

"The language of statutes is chosen with great exactness; yet no law of incest, probably, can be found in any statute-book in which marriage is prohibited with a father's widow, a brother's widow, &c. But the language uniformly is, 'a father's wife,' 'a brother's wife.' The other phraseology is rarely, if ever, used, except when logical precision is necessary."

I also take for granted that Leviticus xviii. contains the law against incest in its various forms, and has respect to incestuous marriages. The denial of this by some writers on the other side is a strong proof that they cannot make out their case if incestuous marriages be the subject of these Levitical prohibitions at all. Those who attach any weight to the assertion that these Levitical prohibitions do not relate to incestuous marriages at all, must consult Dwight's "Hebrew Wife," in which they will find every point discussed and met, with a minuteness of Scripture reference, patience, and force of argument, which can neither be overthrown nor surpassed, and so briefly that he can hardly be abridged.* But the simple idea that sexual intercourse with the nearest relative, whether by marriage or otherwise, is no worse in the eye of the revealed law of God than sexual intercourse of the same kind with any other son or daughter of Adam, had not writers both in this country and America gravely maintained it, is so revolting, as to make it almost incredible that any one should in either of these countries assert it, and yet profess to be a Christian. It is most certainly, at all events, contrary to the construction uniformly put upon the Levitical prohibitions by the Israelites, and by Christian churches and governments, ancient and modern; and thus of Israelites and Christians for three thousand years. Out of the clear, conclusive reasons furnished by Mr Dwight, I select here only the 10th, pp. 55, 56:—

"10. If the law of incest did not prohibit incestuous marriages, its only effect was to weaken the force of the general statute respecting adultery. Every thing is lawful which is not prohibited by some law; and every thing is lawful, so far as a given law is concerned, which that law does not prohibit. And the more particular and circumstantial the terms of a penal law are, as the prohibition of the given offence is less general, so the stronger is the implication that the conduct under different circumstances is lawful. A law forbidding fornication with females under twenty years of age, and assigning their age as the ground of the prohibition, would give

* See Appendix B.

rise to a strong implication that with those who were older it was lawful.

"The bare recitation of several of the prohibitions in question, altered to adapt them to the scheme which I oppose, will set the subject in a convincing light:—

"None of you shall commit adultery with any that are near of kin to him.

"Thou shalt not commit adultery with thy mother; for she is thy mother: thou shalt not commit adultery with her.

"Thou shalt not commit adultery with thine uncle's wife; for she is thine aunt.

"Thou shalt not commit adultery with thy daughter-in-law; for she is thy son's wife.

"Thou shalt not commit adultery with thy brother's wife; for she is thy brother's wife.

"Thou shalt not commit adultery with a woman and her sister, during her lifetime.

"Thou shalt not commit adultery with a woman and her daughter, nor with her grand-daughter; for they are her near kinswomen.

"And if a man commit adultery with a woman and her mother, it is wickedness.

"Who does not see, from bare inspection, that the limitation of the prohibition to these cases of propinquity, with the regular assignment of the propinquity in each case, as the reason why the connection is wrong, and why it is prohibited, carries with it to the mind an almost irresistible implication, that where propinquity did not exist, such connection was lawful? Is any one ready to charge such a mode of legislation on God?"

It may be laid down as a position which none will deny, but those who have the Turkish notions of the inferiority and subserviency of the woman to the man, as a mere instrument of convenience and sensual gratification, or who, to gain their ends in this question, seem to overleap all barriers, however sacred, that in a moral point of view a man and woman are the same, and that what is morally forbidden to a man, is morally forbidden to a woman; that, in the present case, so far as the moral obligation on each is concerned, the sexes are what has been called convertible. But, morally certain as this principle is, the adversary debates it, because he knows that if it is not admitted his cause is lost.

We have already stated that the ground of the Levitical prohibitions is as truly affinity as consanguinity. "To those who have read that law," says Mr Dwight, "an apology seems due for attempting to prove so plain a point. Yet, in most discussions of this subject, it is denied. If, then, the reader will turn back" (he had previously given it) "to the law itself, he will see that the marriages prohibited in Lev. xviii. 8, 14, 15, 16, and 17; Lev. xx. 11, 12, 14, 20, and 21; Deut. xxii. 30; and Deut. xxvii. 20, 23, are every one of them cases of affinity. Under a subsequent head I have examined at length what marriages are forbidden by the law of incest. It will there be found, that of the marriages expressly forbidden, six are cases of consanguinity, and eleven of affinity."—(Hebrew Wife, p. 57.)

Keeping these principles and facts in view, then, we have the prohibition of Leviticus xviii. 16, "Thou shalt not uncover the nakedness of thy brother's wife; it is thy brother's nakedness;" also Lev. xx, 21, "And if a man shall take his brother's wife, it is an unclean thing: he hath un-

covered his brother's nakedness : they shall be childless." "*Taking*" the wife and "uncovering her nakedness" are the same thing ; and thus no doubt is left as to the meaning.

There can be no question that those passages expressly forbid marriage between a husband's brother and a brother's wife or widow. If it were not the widow, it is forbidden in the case of every other man, as well as of a brother, and this prohibition were unnecessary, absurd, and even mischievous. It would have been enough to say, thou shalt not take another man's wife. But the guilt in this case lies in the "nearness of kin"—in its being the "brother's nakedness," he and his wife being *one flesh*. And as the simple crime of adultery was forbidden in the seventh commandment, and could be committed by one of the parties in relation to one another only during the life-time of both, the sin here spoken of relates to a different crime, and is forbidden when one of them is dead. But the relationship between a wife's sister and a sister's husband is one and the same, and, therefore, the woman may not marry the husband of her deceased sister, nor the husband marry her. By the prohibition in question, a man may not marry his brother's wife ; it follows, then, by unavoidable consequence, that a woman may not marry her husband's brother. If the man may not marry the widow, the woman may not marry the widower. Now, by this law, a woman cannot marry her husband's brother. But a husband's brother and a wife's sister are the very same in the degree of relationship ; in other words, are morally bound by the same law. The law, therefore, which forbids a woman marrying her husband's brother, equally forbids a man marrying his wife's sister. There is no avoiding this conclusion, but by denying the most ordinary principles of morals, as applicable alike both to man and to woman. One would think that nothing can be clearer than this, that a law which prohibits a man, any man, married or unmarried, to marry his brother's wife or widow, must prohibit a woman, any woman, whether she have ever been married or not, from marrying her sister's husband or widower ; and so of course the husband of a deceased wife cannot marry her sister. But those who think thus, are very much mistaken if they imagine that this makes any difficulty with writers on the other side. Mr Binney of London, at once, and in very summary terms, says, "**DENIED.** Men and women are *not* to be regarded 'as placed on the same footing' by *Moses*, 'in respect to the law of marriage.' It may be all very true that '*men and women*, as equally moral beings, as alike possessed of immortal souls, and responsible to God,' should be regarded as equals. But it does not follow from this, that *in the time of Moses* 'the sexes were convertible,' and 'placed on the same footing in regard to the law of marriage,' nor that they are so yet, nor that they *ought* to be. Whatever may be the sameness of the thing, considered in its *moral aspect*, and *in relation to God and the next world*, it does so happen, that in the view of society, and in respect to this world, perfect personal and matrimonial purity is of *more* importance in a woman than a man."*

The capitals and italics, with the exception of the last clause but one, are Mr Binney's own. We shall leave it to the reader, to the "Men of Glasgow," and especially to "the Women of Scotland," to entertain the appropriate feelings which this passage, and above all, the methods by which its principle is maintained, must excite in every bosom that has any "*moral purity*." The reader will remark that this writer settles the whole question on the

* "Men of Glasgow, and Women of Scotland," pp. 40, 41.

supposed views of Hebrew society, as if *Moses* spake by no higher authority than Sultan Mahmoud, and certainly with vastly less power to enforce it. We presume that if Dr Symington, to whom he refers, had not been discussing what God *commanded* by Moses, not what Hebrews did, or Hebrew women were not permitted to do by their Hebrew lords, he would have troubled himself very little about the matter. Mr Binney does not tell whether he believes a man and a woman are on an equal footing in a moral point of view and in the sight of God. He will not be caught by any such admission. "The women of Scotland," and it is to be hoped the women of England too, will henceforth understand what position they are intended by the Libertarians to occupy. Mr Binney proves, however, that barbarism and immorality are nearly allied.

An attempt has been made to get rid of the argument, by asserting that parity of reasoning is not admissible in statute law, or that we cannot hold—for this must be the meaning here—that what is forbidden to a man is by implication forbidden to a woman. An American writer (Rev. Mr Marshall) spends a whole chapter of 34 pages, of a 212 page little book, on this point; but, with more ingenuity than fairness, argues it on the principle of constructive treason, or treason determined, not by statute, but by construction. It is not a question of this nature at all. It is not a question of what is treason; but as to whether that which is treason in a man is treason in a woman—as to whether that which was treason in James Duke of Monmouth would have been treason in Ann Duchess of Buccleuch. He introduces, for the sake of effect, the case of a Rev. Thomas Magot, most cruelly treated by Judge Jefferies, who strained the law of treason so as to punish him, by making it an act of treason to have left £600 to Richard Baxter for behoof of sixty ejected Nonconformist ministers, not because they were Nonconformists, but because they were poor. The writer evinces his love of liberty by declaiming in praise of the noble deed of abolishing the crime of constructive treason altogether. His patriotism and his logic would both have some meaning in the present case, if the question by Jefferies had been, if what was treason in the Rev. Thomas Magot was treason in Mrs Thomas Magot, his wife, or Miss Jane Baxter, her sister. The case we have to do with is not one of construction at all, but simply whether what is sin or crime in a man be sin or crime in a woman,—a point about which the unsophisticated reason or conscience of Christian men will have no great difficulty.

Another attempt has been made to get quit of the argument deducible from the prohibition in Lev. xviii. 16, and in Lev. xx. 21, by denying its moral obligation, on the ground of the regulation, Deut. xxv. 5, 6—"If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not marry without unto a stranger: her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of an husband's brother unto her. And it shall be, that the first-born which she beareth shall succeed in the name of his brother which is dead, that his name be not put out of Israel." In so far as the Israelites were concerned, whether this was an express command, or a permissive regulation, it is an exception to the rule, and so confirms the force and certainty of the rule itself. The regulation, by excluding a marriage in such a case with a stranger, shows the express design of it to be peculiar, and that the general law was in all other cases binding. It shows also that a contravention of, or exemption from the general law, could not be made on any authority less than that of the Divine Lawgiver. And further, that unless on *other* good grounds

it can be proved that the law of incest in Leviticus xviii. 16, and other analogous places, is repealed, the exception ceases with the peculiarity of the design.

But besides, it may be remarked in passing, that it is a provision which could not take effect in the very case for which the advocates for the lawfulness and expediency of the marriage of a man with the sister of a deceased wife contend that it is most beneficial and necessary, namely, where the husband has left no children. Where there were children in the case, it could not take place, and so could not serve the very sentimental end about which they so benevolently declaim.

But, of course, the argument of opponents is, that if there were any thing in such connections morally wrong, or contrary to the will of God—which morally wrong must mean here, to be of any use in the argument—God would never have either dispensed with his own law, or enjoined its contravention. The fact, however, is certain, that God commanded, as in Lev. xviii. 16, that a man should not marry his brother's wife. And the fact is equally certain, that God appointed the regulation in Deut. xxv. 5, 6. The real question therefore is, whether, if there be no other principles or statute in the Word of God repealing the command in Lev. xviii. 16, not only to Jews but to Gentiles, this regulation in Deut. xxv. 5, 6 is tantamount to a repealing statute for all men? He will be a bold man who will assert that it is, whether he can reconcile or not the two commands with the moral law of God. If he will persist in saying that God could not have prohibited as an immorality in the general, that which he either permitted or enjoined in the special case, this assertion was as applicable to the prohibition in Lev. xviii. 16, to Israelites of old, as it is to Jews or Gentiles now; and the Israelites of old might, on the footing of this exception, have despised the prohibition of the Almighty with as much justice as a Jew or a Gentile may do so now. The argument, then, of these parties, derived from Deut. xxv. 5, 6, if good for their purpose at all, is good for a great deal more. It goes to the removal out of the way, both of Jews and Gentiles, ancient and modern, of Lev. xviii. 16 altogether—viz., of the prohibition to marry the brother's wife; and if it be good to that extent, they need not trouble themselves much with the argument from parity of reasoning to the wife's sister. This will do their work far more effectually; but then it makes strange work and havoc of the law of God. It makes the Almighty enact and annul at one and the same moment. That, however, which one would think would stagger at least the men who make any pretensions to *Christian* morality is, that it goes the length of removing the laws of incest altogether, of denying that it is a crime, and of sanctioning marriage in any possible degree of relationship whatever. On the principle of their argument, that God would neither command nor permit what is morally wrong, as they apply it to this question, the command addressed to our first parents to "be fruitful and multiply and replenish the earth," not only would carry them thus far, but is carried thus far by the reckless deniers of God's law and authority altogether. Men who are thus reckless of consequences in following out *their* opinion of a controverted text, because some one, in the amusement of a little "literary antiquarianism," has said that a text bearing on another subject warrants them to do so, deserve the severest reprobation. Some of the men, who seek importance by the snappish familiarity with which they presume to rebuke men of great learning and name, affect much righteous indignation at the idea of God suspending his

moral laws. I do not myself like that mode of expressing it. But what is meant by those who use it on this subject is, that God of his own authority, and for great and important reasons, founded, as we see by actual observation of the effects of its violation, in the physical and moral condition of man, for the prevention of human degeneracy and crime, physically and morally, has prohibited certain kinds of intercourse between man and woman, whether married or unmarried, on pain of his righteous indignation. He did, nevertheless, as the Sovereign Ruler of all, in order to fulfil certain designs, make one exception at the creation of man, and another exception to keep the Israelites a separate people, and free from the abominations of the Gentiles, and to fulfil his promise as to the coming of the Holy One. But this he did by the same authority that enacted, and in the exercise of the same wisdom, and by the same constituting power by which he framed the general law and the general constitution; and while the exceptions have accomplished their ends and have ceased, the general law and general constitution by his positive authority remain, and are our standing rule, and are, as his will, of moral obligation to the end of time. It must be so, unless he miraculously interpose a new revelation for the ease and comfort of those who feel the present constitution a heavy blow and great discouragement to their insatiable love of this kind of liberty.

The same reasoning which these men use would sanction murder and robbery too, as in the cases of Samuel putting Agag to death by God's command, Abraham offering up his son Isaac, the Israelites spoiling the Egyptians, and other similar cases to be found in the Bible, where God, as Creator, Ruler, Proprietor of life and property, and Supreme Judge, takes the matter into his own hand. If men must get into the abstract metaphysics and eternal ethics of such a point, and will not be content without abstract eternal ethics, in a matter which, from its very nature, must be of moral positive law and institution, they must carry their abstract ethics to a length to which few men who reverence the Word of God will choose to follow them.* God set aside, or if you will, suspended, the great general law of the doom pronounced on the first sin, "dust thou art, and unto dust thou shalt return," in the cases of Enoch and Elijah; the great general law of life for life in the cases of Cain and of David, and even in the case of Saul of Tarsus, who was accessory to the murder of Stephen, while yet he did not revoke the general law in any of these cases. Would all this be a reason for declaring that the things they did were lawful, and that they were not held to have deserved the execution of the sentence which God had pronounced as due to the sin and the crime? These exceptions were made by the Lawgiver himself. He doubtless made them in entire harmony with his own moral perfections. And if in these cases, why not in any other where we have his own sanction or permission? It is presumed that it was on some such notion of the abstract metaphysics of ethics that Hume maintained that murder was only the turning aside of the current of a little red fluid, called blood; and adultery no harm, unless it were known.

I have to call special attention to one other point, which must carry the judgment of every one who is not resolved, or at least not previously

* On this, as on every other point of the Scripture argument, I earnestly recommend the admirable reasoning of Dwight. Some of our readers will hardly believe that men professing Christianity do actually, on the kind of reasoning here adverted to, deny that there is any such crime as incest at all.

disposed, to resist all argument from the Levitical law. It is this:—That it plainly *forbids marriage within degrees of affinity more remote than that of a man with the sister of a deceased wife.* Thus (Lev. xviii. 14), “Thou shalt not uncover the nakedness of thy father’s brother, thou shalt not approach to his wife: she is thine aunt.” Of course the word wife here must mean widow, otherwise it would merely be the prohibition of adultery. Marriage is here forbidden to a man with his aunt-in-law—his aunt by affinity. A man (a son) is forbidden to marry his mother’s sister, or aunt by consanguinity. A son is forbidden thus to marry his aunt both by *affinity* and consanguinity. But the father of that son is forbidden to marry (Lev. xviii. 16) “his brother’s wife”—that is, the aunt of his son by affinity; and it were strange indeed if he were allowed to marry the sister of his own deceased wife—that is, the aunt of that same son by consanguinity. Parties who stick at no consequences of *principle* in interpreting the law, because they persuade themselves that they are justified by an inference arrived at by a point of criticism of a kind, as by them maintained, to say the least, that is *very, very* doubtful, may get over this argument; but I am persuaded few others will get over it.

Again, in Lev. xviii. 17, we have marriage expressly prohibited, on the ground of nearness of kin, with a wife’s grand-daughter, the daughter of that wife’s son or daughter by a former marriage—in other words, a man is forbidden to marry his *grand-step-daughter*, on account of *nearness of kin*; but yet, on the reasoning of the Libertarians, he is at liberty to marry the much closer and nearer blood relation of that same wife, viz., her sister. But this latter is a point which they are so determined to carry, that I believe, notwithstanding avowals in some cases to the contrary, the majority of them do not admit the authority of the Levitical law on the subject at all. And, without charging men with falsehood, I must say I care little for avowals extorted by a deference to prevailing opinion, when men’s argumentations and convictions have already subverted in their own minds all the principles which can give any stability to the feelings that dictate the avowals. Some of the writers most directly deny that the Levitical law is any rule to us. They affirm that it was only the ceremonial and judicial law of the Jews. What they mean by ceremonial on such a point, I do not profess to understand, and cannot conceive. If by ceremony they mean some external rite to give pomp and circumstance to the institution of marriage, no one can discover either its use or its propriety. If it were to keep them separate from the nations around them, it evidently would have had the opposite effect, by driving them to seek for wives and husbands “far hence among the Gentiles.” If it were as a type of something future in the Christian economy, it is desirable that it be pointed out. Marriage itself is used in the New Testament as a type or similitude of the union of Christ and his Church, but this only establishes its sacredness and perpetuity. On the same principle, if the Levitical prohibitions were types and ceremonies, what did they prefigure? What in this instance do they teach? If they were shadows, they must point to the substance. What is the substance in such a case? There is no substance but the thing itself, and consequently no ceremony.

Again, if they are alleged to have been judicial, what does that determine? Is everything that was judicial in the law of God, as given by Moses, for that very reason contrary to the actual law of God, to good morals, or to the principles of Christianity? Is the mere assertion, or even the proof,

that a law belonged to the judicial law under the Mosaic dispensation, certain proof that it is now no part of the will of God, and contrary to natural right? If so, short work will be made alike with the laws of religion and morals, and with the principles of justice and mercy. Is there no meaning in the universal principles which we have seen prefixed and added as the sanctions of the prohibitions in Lev. xviii.? Is there no meaning in Rom. xv. 4—"WHATSOEVER THINGS WERE WRITTEN AFORETIME, were (aforetime) written for our learning?" Grave divines and learned lawyers seem to think that the mere utterance of the words "ceremonial," "judicial," "municipal," without reason or cause, or without any attempt to show that they have any possible application to the subject in hand, are amply sufficient to put the facts, testimonies, and universal principles of God's Word to flight without any more ado. But in truth there was nothing more judicial in the prohibitions in question than there is in the seventh commandment, which forbids all uncleanness, and to which the punishment of death was annexed by the Mosaic law. If the circumstance of the punishment annexed to the violations of the prohibitions of Leviticus xviii. renders them ceremonial and judicial in the sense that they are no longer binding on us, then the same circumstance must absolve all mankind from the obligation of the seventh and of the whole ten commandments as an authoritative law of God,—a conclusion which few but those who hold the Antinomian notions of Mr Binney will venture to broach.

Were this the proper place, it would be interesting to trace the connections between a pretended spiritualism and mysticism in religion and infidelity, Popery and paganism, both in doctrine and morality. But we must forbear.

Calvin, who was both a jurist and divine, a man of unsurpassed, if not unequalled strength, acuteness, and moderation of judgment, of classical learning seldom exceeded—a man skilled and consulted not only as a divine, but as a jurist and a politician—who was, in fact, bred to the law, and had not long left that profession when he published his *Institutes*—a man who has impressed his mind on whole nations—is infinitely to be preferred, in all sober reason, to any Judge Vaughan, or Storey, or Denman, wrote on the universality and permanency of the law in Lev. xviii. as follows :—On Lev. xviii. 6, "Nemo ad propinquam." Speaking of the word nakedness, he adds,—“Therefore there is no doubt but that Moses marks something abominable (*fœdum*), and to be punished. Moreover, it must be maintained, as I have already determined, that not only are certain incestuous connections without marriage condemned, but that the degrees are designated within which marriages are unlawful. It is indeed true that this was part of the political constitution which God established among his ancient people; but at the same time it must be held, whatever is commanded, that it was taken from the fountain of rectitude itself, and, from the sense of it, divinely implanted (*ingenito*) in us. Therefore, *some, little exercised in the Scriptures*, affect a preposterous acumen when they boast, that the law being abrogated, the bond is dissolved by which Moses bound his countrymen (*suos*.) For that this doctrine is not simply political, nor ought to be thought so, is to be gathered from the preface” (to ver. 6) “just expounded.” And then, stating its substance, he adds,—“In conclusion, the prohibition of incest, about which the question now is, is by no means of the number of laws which are wont to be abolished, according to the circumstances of times and places, since it flows from the

very fountain of nature, and is founded in the general principle of all laws, which is perpetual and inviolable." He farther declares that God prohibits them simply as pollutions, "inquinamenta," and adduces Scripture authority for the proof.*

The reader, who is uninitiated in the shifts and turns of the writers on the other side, may be surprised to find reasonings like those of Calvin and Grotius met by such free and easy answers as the following of an American writer:—"It must be granted that those laws being inspired, were the best for the people to whom they were given; but the Asiatics were never accustomed, and, as our missionaries testify, are not now accustomed, to exact classification or logical arrangement in discourse"!† And of course the conclusion is, that God adapted his laws to the disjointed arrangements of ancient Israelites and modern Hindus or Calmucks! Others treat us to reasons drawn from "Eastern houses," "Eastern customs," and such like, as if the Bible, like the Sabbath, had not been made for MAN, but for Easterns or Westerns only.

Since writing the above I have had an opportunity of perusing Böehmer's "*Jus Ecclesiasticum Protestantium*," and I am tempted to give the following admirable extract on the universality and permanency of the Levitical prohibitions. Let it be observed that Böehmer was not of the class of bigoted theologians, who, of course, because they are theologians, must be unfit to judge of a point of theology and morals, but Professor of Common Law (*Juris Ordinarii*), and interim Director of Council to the King of Prussia last century. The preface is dated 1731. He edited the "*Corpus Juris Canonici*."

Böehmer, tit. xiv., *DE CONSANGUINITATE ET AFFINITATE*, states first, the "history of computing the degrees," then second, the rules by which the prohibitions were regulated; and while condemning their undue extension, and stating the law among Protestant States, sums up in sec. xxxvi., of which the following are the heads on the margin:—"The degrees in affinity are estimated from a married person, and the prohibition extends itself to the same degree which restrains blood relations (*consanguineos*.) From which rule the Tridentines deviated in the case of a woman illegitimate. Was it so among Protestants?" These points he states as follows:—"But I have not yet evinced how far marriages are prohibited in the first kind of affinity. That there are no degrees of it, asserts Modestinus in l. 4, § 5, *de grad. et affinit.*, which is undoubted as to *succession*, of which relations by affinity (*affines*) are not partakers, therefore neither is any account of degrees held. But it is held as to carnal connection; so that the degrees ought to be estimated from the person of the spouse. The spouses (*conjuges*) are one flesh, and constitute one body, and so the wife is joined in affinity by the same degree to the blood relations of the husband as the husband was joined to them in consanguinity, and *vice versa*. But these were most common, even in c. 12, *seqq.* 6, 35, qu. 2 et 3, acknowledged. Thence the laws ordain that the same degree must be observed in affinity which they concluded to be observed in consanguinity, c. 8, x., h. t., which the courts of Protestants for the most part follow. From this rule, however, receded 1, *Ordin. Eccles. Argentorat.*, p. 397, prohibiting matrimony between those who are among themselves in the second and third degree of the collateral line, but expressly admitting them

* *Calvini Opera Fol.*, Amstelodami 1671, vol. i., pp. 519-20.

† *Marshall on Lawfulness of Marriage*, &c., p. 87.

in affinity: thus, *Dass nunmehr die Vermaelung im drittem Grad in gleicher und ungleicher Linie unverbotten, sondern frey und tugelassen seyn soll.* "That now marriage in the third degree, in the equal or unequal lines, shall be unforbidden, but free and permitted." Though Böehmer speaks of second and third degree, this extract only mentions the third. He adds (ii.), "In like manner the Tridentine fathers thought that a veil ought to be drawn over affinity contracted by (stupro) fornication, and the prohibition should subsist within the first and second degree only.—Concil. Trid., sess. xxiv., de Matrim., c. 4. I think this was wisely resolved, since such affinity is not so publicly known, and so the fear of scandal is awanting. *In the ecclesiastical laws of Protestants I find no exception*, although, that the prohibitions were withdrawn" (in such a case) "would be more advisable. Moreover, in the second degree of the unequal line of illegitimate affinity, Lauterbach, cit. § 31, asserts that marriage is prohibited, which affords a proof that little or no doubt was raised among Protestant Christians upon the degrees among these relations by affinity. For even Carpsovius, lib. ii., Jurispr. Consist., def. 77, stands on the rule, that the same prohibition obtained in the case of an illegitimate which was prescribed in a legitimate, in which, in the deficiency of the decisions of jurists, I believe we must stand."*

It will be observed that this is determining affinity before marriage. He then goes on to consider what he calls "affinitas superveniens," or the affinity which supervenes on betrothment or marriage. In discussing this subject, he shows that the Levitical prohibitions are obligatory on Christians; that the Christians were, as it were, descendants of the Jews—professing that Christianity was Judaism reformed; that they were held so by the heathen; that Christians in early times did not disown this origin; that they only laid aside ceremonial and forensic laws, among which, however, could not be reckoned the laws concerning prohibited degrees, which, by the design of God, were to be in force for ever, and were in harmony with universal religion; that Christ himself inculcated this distinction, and reformed the laws of marriage with this view; that the laws regulating the degrees of marriage were of this sort, as Paul also proves, and then he says, § li., "In the purer primitive ages proofs are almost awanting by which this opinion (dogma) can be illustrated. I conclude that it has happened from this, *that no doubts were ever stirred* concerning the prohibited degrees, but that rather Christians acknowledged, without any hesitation, as was altogether proper, that they were bound to the divine laws *given concerning marriage in the Old Testament*. They knew the reproaches of the heathen, who accused them everywhere of the crime of incest."† He gives specimens of the way in which they repelled this calumny. He then adds,—“If you inquire whence they obtained their estimate of incest, the thing itself teaches that they took their rule nowhere else than from the Word of God. Various doctrines of the fathers, which were delivered a little after, concerning the limits of the prohibited degrees, declare this: these were not new, nor drawn from any new source (*principio*); already from the beginning of Christianity had they come into that opinion, that the limits placed for marriage by God himself must be preserved; nor does any vestige occur that any one of them ever called that into doubt,

* Böehmer's *Jus Ecclesiasticum Protestantium usum Hodiernum*, &c., tom. iv., editio quarta, pp. 174, 175.

† On account of their secret meetings in persecuting times.

and that they believed that the laws of Moses were given to the Jews alone addicted to the Levitical worship, and that they were to be placed in the same category with the rest concerning circumcision, feasts, and the like; and thus they rightly judged, because it was manifest that these laws, equally with those concerning divorce, had an universal and eternal force" (*universalem vim atque æternam habere.*)*

Such is our Scripture argument, based on great Scripture principles, viewed in connection with certain Scripture texts, about the meaning of which there is no dispute whatever. These general principles are:—

1. That the Old Testament, by the decision and practice of our Lord and his apostles and such special texts as Rom. xv. 4, and 2 Tim. iii. 16, is, in some way, and to a great extent, a rule of faith and manners to us.

2. That the prohibitions in Lev. xviii., whatever they are, proceed on great general and universal principles and sanctions, applicable to all men, and not limited to Jews.

3. That these prohibitions refer to incestuous marriages.

4. That they extend to relationships by affinity, as certainly, and to as great an extent, as to relationships by consanguinity.

5. That in matters affecting the race of man, male and female, what is forbidden by God—in other words, is morally wrong—to a man, is morally wrong to a woman.

6. That in the Bible, and in all legislation, civil and ecclesiastical, the word "wife," and not "widow," is the word used to designate the woman bereaved of her husband.

7. That on these principles the prohibitions in Lev. xviii. 16, and Lev. xx. 21, which are as follows: "Thou shalt not uncover the nakedness of thy brother's wife; it is thy brother's nakedness"—"If a man shall take his brother's wife it is an unclean thing; he hath uncovered his brother's nakedness; they shall be childless"—as they prohibit a man from marrying his brother's wife or widow, prohibit a woman from marrying her sister's husband, and the prohibition of course applies to both. We have, therefore, demonstrated—that is, as Mr Binney says, we *think* we have demonstrated—that every one of the following things required by an American writer on this subject is fully complied with. He says, "There are at least five things which ought to be very clear to our mind before we bring any fellow-Christian under ecclesiastical penalties for these marriages: as, 1. That marriage is the subject, or at least included in the subject, in Lev. xviii. 6–17. 2. That the term wife, in that passage, means widow. 3. That the prohibitions there are to be explained by parity of reason. 4. That, so explained, they include the marriages considered; and, 5. That they continue to be authoritative laws for the Christian world."

We have the most entire and perfect conviction that each and all of these points have been proved; and do not see how, without casting God's word and law behind our backs, we can deny any one of the seven points enunciated above, and which most certainly include these five.†

* Böhmer, *ibid.*, 193–197.

† We have seen a curious argument for setting aside the force of all these reasonings, derived from the supposed obscurity of Scripture authority on this subject.

In a discussion in the General Assembly of the Presbyterian Church in America, in the year 1842, on the case of a Rev. Mr M'Queen, in pleading for the doubtfulness of Scripture on the subject of such marriages, it was asked, "What other point of morals is thus a matter of dispute? Who doubts whether theft or drunkenness are crimes? Who would hesitate a moment in inflicting the censures of the church for such offences, or who would

This then is our positive Scripture argument. The writer has been anxious to preserve it simple and unembarrassed, and has therefore purposely avoided many collateral topics, which only serve to perplex the reader. Some of these will be presented in an Appendix.*

Such, we repeat, is our general argument, based on great Scripture principles, not on doubtful criticisms on a controverted text. It will be perceived we have as yet founded nothing on Lev. xviii. 18. *It is not our argument, nor the ground of it*, neither can it be held as an argument against us *on any one principle that pervades the laws of incest* in the Bible. At the best, it can only be pleaded by the Libertarians as an exception to the general principle pervading the law, nay, as an *inference* from an *exception* that is at the best strangely remote from its subject, and *very, very* doubtful if it *be* an exception at all, and giving a greater liberty in the way of marrying a sister-in-law or wife's sister than an aunt-in-law or a grand-step-daughter. What *reason* is there in this? But whether there be reason or no, is it the fact?

Section VII.—*Special Scripture Texts Continued*—Lev. xviii. 18.

Is Lev. xviii. 18 an exception to the general principle of Lev. xviii. 16? Libertarians allege that it is. What is this text then? It is in our version, "Neither shalt thou take a wife to her sister, to vex *her*, to uncover her nakedness, beside the other in her life-time." One remark must occur here to every one, viz., that if it be an exception to the principle of the 16th verse, which plainly forbids the marriage of a brother's wife, that is, forbids a man to marry his brother's widow, and by consequence a woman to marry her sister's husband or widower; and that on the general principle that what is forbidden to the woman is forbidden to the man, it is strange that the exception does not occur here after the 16th verse, which it would naturally do if it were an exception, but after other laws are laid down. It is stranger still that, in such a place, where God was revealing his law to rectify the disorders, correct the ignorance, and forbid the crimes, which, in the course of ages, had settled down as part of the curse on man for the violations of the original law and constitution of his God, and that in no one of these respects did the curse fall upon them with more degrading and destructive effect, than in the indulgence of those very lusts which brought down ruin on Sodom and Gomorrah and the cities of the plain, and on the Canaanites, who had fallen into such abominations that the land was sick of them and vomited them out; it is stranger still, we say, that at such a time of renewing think to certify to the good character of the offender, or to profess so much pain in visiting him with the punishment he had justly merited?"† These questions, if sincerely put, argue great ignorance both of men and things, and very innocent simplicity. The first of them might be answered by another—What point of morals has *not* been a matter of dispute, and that under every one of the ten commandments? How many doubts and difficulties have been started as to the degrees of theft and drunkenness that constitute sin, and make them a subject even of moral blame, not to say of church censure? The more prone human nature is to the sin, the greater the immoral sympathy for the sinner. We need not go to Popish Moral Theologies, or to the decision of priests in the confessional, for an answer to such questions. The proceedings of our church courts give ample evidence, that sympathisers and certifiers can be found in most woeful and perilous abundance; and their expressions of sympathy and pity, being so cordial and tender, that the guilty parties might be tempted to conclude they were martyrs rather than offenders against the laws of God, and a scandal to the Church of Christ. It is not God's Word that is doubtful; but man's corruption and self-interest that dim the moral and intellectual perceptions.

* See Appendix C.

† Marshall uses the same kind of argument.

his law, prefaced by the awful solemnities of Sinai, God should subvert two of his own laws : viz., the original law at the creation, of one woman to one man, and the law of Lev. xviii. 16, prohibiting to a man marriage with a brother's wife, and, by consequence, to a woman marriage with a sister's husband. At such a time, most certainly, one would rather expect to find the renewal of the original law at the creation, than a divine sanction of its violation ; and that too for the purpose of merely enabling men to indulge a brutal lust in having as many wives as they pleased, and that at all hazards of purity, health, family peace, and of the indulgence of all the vile and malignant passions of humanity, provided only it were not done by marrying two actual sisters, the daughters of the same father and mother, of one or both of them, at one and the same time. This is moral demonstration against such an idea—that is, as Mr Binney would say, moral demonstration to us ; and as there is a spirit in man, and the inspiration of the Almighty giveth him understanding, I believe it is moral demonstration to every understanding, not perverted by passion and prejudice, or by having a theory to maintain. We do not admit that the Libertarians have a monopoly either of all candour or of all common sense, though many of them write with a confidence and flippancy which strongly indicate that they themselves seem to think so. I believe it is perfectly possible, moreover, that they are not beyond the range either of passion or of prejudice.

It is perfectly plain to any one reading Lev. xviii. that the verses from the 6th to 17th inclusive are *sui generis* ; that they relate to the subject matter of "nearness of kin," and determine its degrees. In every one of the verses the specific nature of the kinship is assigned, and in every one of the prohibitions, the *uncovering of the nakedness* is forbidden, and the specific reason is given, viz., that it is the nakedness of the relation specified, whether by affinity or consanguinity. The manner totally changes at verse 18. A new subject is plainly introduced. Nearness of kin is no longer assigned as the reason. If, on the theory of the Libertarians, this verse sanctions polygamy, and only forbids it in the case of two actual sisters, surely "nearness of kin," the reason which they allege forms the ground of the peculiarity, would have been as good a reason here as in all the other cases. The kinship could not have been nearer. This is a plain proof that nearness of kin is no ground of the prohibition in this verse at all ; and that this verse opens up another subject altogether.

It has no one of the circumstances or forms that make an exception. A zealous writer on the other side says, that this verse is connected with the preceding verses by the "conjunction" "neither." It would have been as true to have said that it is disconnected by the disjunction "neither." The truth is, all the conjunction that is in it is the conjunction of prohibition, whatever be the matter of the prohibition. The original is, "and thou shalt not," fitly enough rendered "neither," and the same kind of phraseology, "and thou shalt not," goes on to the end of the prohibitions in the chapter, and in cases which have no connection whatever with kindred. Every one of them begins with "and," followed by "not," indicating that all the prohibitions proceed from the authority of God, who introduces them with an assertion of his eternal authoritative right, verses 2, 5—"I am Jehovah your God. I am Jehovah, the God of all flesh," and closes the declaration of his judgments against them by the same authority, verse 30, "I Jehovah your God."

The subject of incestuous marriages being finished, God, who is the law-

giver, adds other prohibitions by the same august authority, and by the same awful sanctions. One of these, as in our version, is Lev. xviii. 18, "Neither shalt thou take a wife to her sister to vex *her*, to uncover her nakedness, beside the other in her *life-time*." It will be observed here that the reason of the prohibition is entirely changed. The reason, the "vexing," whatever that may mean, is new. It is not said she is her sister's sister, or it is her sister's nakedness. Nothing of the sort. The reason is new. Though we could admit that the divine Lawgiver could bring in an exception as an after-thought, removed from the general prohibition in the 16th verse, to which it is supposed by our opponents to refer, still there is not only no renewal of the reason "nearness of kin," but a new reason altogether—the proof positive that it is also a new subject.

Contrary to this, the Libertarians assert that this verse is both a sanction of polygamy, in every case but that of two actual sisters, and a permission, in the way of exception to the prohibition, verse 16, of marrying a "brother's wife"—to marry her after the death of her sister; the latter depending on the phrase *life-time*. They state it much more strongly than we have now done. Mr Binney, in his pamphlet, "The Men of Glasgow and the Women of Scotland," p. 35, says of Lev. xviii. 18, "But whatever was the reason of the law, which it is no business of ours to determine" (he has discussed it, however, through three pages), "*there is the law itself*. There, *as it appears to us*, is, as a matter of fact, the plain, express, unequivocal enactment, in one breath permitting polygamy and forbidding the contemporaneous marriage of sisters," but, of course, he means sanctioning them in succession. This is the inference, without which the alleged "*law*" is of little value to his argument. These gentlemen are very stern in demanding not only express statute law, but in excluding all inference, implication, or parity of reasoning, in the application of Lev. xviii. 16, but very quietly avail themselves of the liberty they deny to others, and on the supposition that two wives, and these two sisters, are forbidden in one particular case, *therefore* they infer that they are sanctioned in all other cases. They even turn the inference into a "plain, express, unequivocal enactment." Why this freedom in their own case, while they refuse it to others, even in a much less questionable form? Though the freedom were allowed, it does not follow that the use they make of it is legitimate, and their conclusion certain.

It will be observed, then, that the task proposed to themselves by the Libertarians is, to prove that God sanctions polygamy by his law, and that the word "*time*" rules the general prohibition in the 16th verse; and sets it aside at the death of the first wife. Let us then look at this latter point first, and see if there be in the words of verse 18 that which will bear them out in this task, and subvert all the reasonings, both from general principles and specific texts, by which we have endeavoured to make good our Scripture argument. The opponents confidently assert that there is, and plead it as positive Scripture proof, which can neither be questioned nor gainsaid. This text is *their* alleged stronghold. But it is not, and never was, though men of high name, such as Lord Denman, have supposed and asserted it was, either the alleged stronghold or ground of the argument maintained by their opponents. Our argument is complete without it, and the question is, does this text overthrow it? Is there enough in this disputed text to overthrow all the reasoning on fixed, clear, indisputable principles on the other side—indis-

putable by all who receive the saying, "ALL Scripture is given by inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness," that the "man of God" (not the Jew only, but the Gentile also), "may be perfect, thoroughly furnished unto all good works?" If there be not—if this text be doubtful—then he that will violate the law and the principle of the law of Lev. xviii. 16, on a mere doubt, is guilty of sin. "He that doubteth is damned if he eat"—if he do the forbidden thing—"for whatsoever is not of faith is sin."

We have read and studied Lev. xviii. 18 carefully with this view, and affirm that, irrespective of the marginal rendering in our version of the Bible, there is no evidence whatever that the phrase in the Hebrew, rendered "life-time" in our version, conveys the smallest hint that the thing here forbidden was lawful after the death of one of the parties. There is no evidence whatever to show that it means the life-time of the *first wife*, which it must mean to serve the purpose of the Libertarians. After reading, and re-reading, and reading again and again the Hebrew, all that I can discover, or that any other man can discover, of the literal meaning of the words, even though you admit that the word rendered wife is necessarily "wife," is this, "A wife (or woman) to her sister thou shalt not take, to rival, or vex, to uncover her nakedness upon her, in her life." There is no evidence whatever that the word rendered "life-time" signifies more than simply her "life;" and in this view the text simply means, "Thou shalt not take a wife (or woman) to her sister to make her miserable in her life." After coming to this conclusion, I found that Professor Mill of Cambridge, as quoted by Mr Sleigh, renders it thus—"And a woman unto her sister thou shalt not take: to annoyance, to uncover her nakedness upon her in life." His punctuation is arbitrary, but his rendering is literal. But, in truth, great injustice is done to our translators by the way in which they are dealt with. Any one looking into the common English Bible will see that they carefully give the word "*her*" after vex, and the word *time* after life, in italics. Their *translation* in the text actually is, "Neither shalt thou take a wife to her sister to vex, to uncover her nakedness, beside the other in her life." In truth, no proof that the idea of "time," implying that that which is forbidden ceased to be forbidden at the death of the first wife, is contained in the passage at all. But, moreover, this rendering of the verse is that of the Arabic version, the Latin of which in the Polyglott is as follows:—"Et mulierem cum sorore sua ne sumas, ut sit ipsius rivalis, ad detegendam turpitudinem ejus cum ipsi in vita illius." "And a woman with her sister take not, that she should be her rival, to uncover her shame with her in her life." Besides, any one looking into the Hebrew will perceive that the affix *her* has, to say the least, as much a reference to the woman that is taken second as to the woman that is taken first. What, then, do I mean by all this? Why, simply this, that it is a prohibition of polygamy in some form or other. Because the reason, rivalry—as the Septuagint has it, or vexing—or afflicting, refers to the second woman as well as to the first, and takes place whether it was an ordinary case of two women or of two actual sisters; while in the latter there would be the additional crime of incest. It is therefore a prohibition of polygamy on the ground of the rivalry, the misery, and distress, strifes, hatreds, and consequent sins and crimes thereby occasioned, and is only in accordance with the original appointment of God,—the evil connected with it being applicable to the one woman as well as to the other. It forbids polygamy, a state in

which, according to Michaelis, mutual hatred of the wives, and consequent misery of the whole family, are inevitable.

The opinion of Michaelis, who is a great authority with the Libertarians, is one of the strangest which we have seen on this subject. He affects to find the proof perfectly clear in the 18th verse in favour of marrying the sister of a deceased wife. He says, "I cannot comprehend how it should ever have been imagined that Moses also prohibited marriage with a deceased wife's sister—that very connection which we so often find a dying wife entreating her husband to form, because she can entertain the best hope of her children's welfare from it." Though the "dying wife's" hope were well founded, which there are strong principles in human nature to disprove,* neither a "dying wife's" hope, nor Michaelis' comprehension, is the measure of God's law, and they are a very poor ground for questioning it, though both were facts, and facts of more importance than they are. His statement of the case in the following passage renders the whole argument, and that of others who adopt it, ridiculous. He says farther,—“What Moses prohibited was merely *simultaneous polygamy* with two sisters; that sort of marriage in which Jacob lived when he married Rachel as well as her sister Leah. The reason of this prohibition it is not difficult to discover. Sisters, in whom nature has implanted a principle of the strongest affection, are not to be made enemies to each other by polygamy. *That two wives of the same husband should love each other is inconceivable.* The man, therefore, who wishes to live in polygamy, and make *two wives* hate each other from jealousy, should make use of strangers and not of sisters. The history of Jacob, who, contrary to his inclination, was brought into this predicament, furnishes a very animated representation of the reasons on which this law is founded. Enmities between sister-wives will, besides, always be more violent, and, from their having known each other too intimately all their lives, more unmannerly, than when they are strangers to each other, and cannot so freely venture to outrage decency in their mutual hatred.”† Michaelis was of a different opinion from that of Mr Binney. Michaelis thought polygamy *must* make enemies of the women, and he could not conceive their loving each other to be possible, but that their mutual hatred was certain. But, as the polygamist must have his way, stranger women are good enough for his purpose. Mr Binney, however, thinks Jewish and Turkish women of a different nature altogether, and would be vexed and humbled beyond measure if their husbands had each only one woman to wife!‡ I suspect the following incident speaks more

* It is a certain fact that the affection of an unmarried aunt, whether she be the sister of the father or of the mother, is more intense to their children than that of the married aunt, who has children of her own, and so would it prove if the aunt became both married aunt and stepmother. Children of her own would totally alter the case. Her affection would instantly be fixed on them, and there would be great danger of a very opposite feeling to those who would now be nephews and nieces and stepchildren all in one. The very mention of such confusion excites loathing. Yet the alleged "dying wish" of dying wives is made a leading question with the Royal Commissioners, and a point of moment in the alleged facts collected by the hired agents sent over England, and then assembled to give their *ex parte* evidence,—as if the wishes, though they were expressed, of persons, whether men or women, when their minds and feelings are not always in the most fit state for giving a judgment on anything, were to be a ground of legislating on one of the most important questions that can engage the attention of human beings. Were the results not of a very grave character, such a mode of establishing a ground for legislation would provoke only a smile of contempt.

† Commentaries, vol. ii. pp. 113, 114.

‡ Anything characterised by more disgusting levity than the two or three pages of Mr Binney's pamphlet, in which he handles this point, we have not read in the writings of any

truth than all Mr Binney's clever gaiety on the subject. A friend of the writer's was visiting as a missionary in a Mormonite family in this city, and the following graphic scene took place:—Entering on their peculiar tenets, the husband, like Mr Binney, defended polygamy, from the example of Abraham and others. The friend in question opened one of their tracts at a place where it gave their rules sanctioning polygamy. He said to the man, "Do you agree to this?" "Yes," was the answer. To the woman, "How would you like this, if your husband shall see fit to carry it out?" The woman at once replied, "Ah, she shanna' come here, na, na; we'll ha'e naething to do wi' her." "But don't you admit polygamy to be one of the tenets of your faith?" "I'm no' caring what it be. I tell you, she'll no' come here—na, na." This is genuine nature. But perhaps a little Turkish training would make it a better case for Mr Binney's argument, and accustom "Scotch and English girls" to desire it with as great "gratulation" as he says ancient Jewesses did. Those who quote them as authorities will doubtless do their best to reconcile Michaelis's necessary "hatred" with Mr Binney's "gratulations."

It may not be unsuitable to add here, that if Mr Binney's opinion of things be at all correct, the prohibition, according to the view of his friends, in Levit. xviii. 18, as forbidding the simultaneous marriage of two sisters, as in the case of Rachel and Leah, had little sense in it, and no foundation in the ground or reason of it at all; and he gets quit of the prohibition of marrying two sisters at once rather more easily than that of marrying the one after the other. After stating, in his usual style of levity, the case of Sarah and Hagar, he adds,—“So also, in the case of Jacob's sister-wives, each presented him with a secondary one. There was no 'vexing' in the matter.” If we thought that Mr Binney believed that God was the legislator, and not Moses, and that the authority was not merely human but divine, we could not but denounce the gross impiety of the opinion that God legislated on an absurdity and a falsehood. But Mr Binney writes as a man who must have his amusement. Accordingly he most appropriately introduces a clause of Scripture, and a stave of a Scotch border song, to set forth the scene of David's marriage with Abigail. He says, p. 34, “Nevertheless 'she (Abigail) hastened and rose,' and rode off, with her five damsels along with her, 'blythe and merry,' laughing and lightsome,—

‘Across the border and awa.’

And she 'became David's wife.'” The whole passage must fill every true believer in God's Word with nothing short of disgust. More perfect playing into the hands of infidels and socialists there could not be. Michaelis coolly tells us that his perfect belief, as a first principle, is, “that two wives of the same husband should love each other is inconceivable”—that the polygamist *must* “make two wives *hate* each other” in every case. Nevertheless God, according to him, sanctions the relationship where love is inconceivable and hatred certain, not only in the case of *two* women, but *two hundred*, though they should pluck out each other's eyes; provided only that it be not done by two sisters, who would certainly be “more unmannerly” to each other than stranger women, and “cannot so freely venture to outrage decency in their mutual hatred!!” A pretty account this of sister-

professedly Christian man. The very views which such writers advocate seem to blunt their moral feelings. If any one think this is too strong, let him look to his pamphlet, pp. 33-35. We could not transfer them to our pages.

hood. But come what will, the polygamist must be gratified, and the disgusting profanity is uttered, that God provides him with strangers. One would suppose that this certainty of mutual hatred in any case would be a very good reason for prohibiting polygamy in every case, but a very strange one for God sanctioning it in any case whatever; and, so far as the reason of the thing is concerned, is a tolerably strong presumption that in Lev. xviii. 18 polygamy of every sort is forbidden. But the absurdity of this argument of Michaelis and others we have previously exposed.*

Some commentators, such as Henry and Scott, to reconcile with the law of God the apparent permission—I say apparent, for it is not real or formal, but only a providential permission—of polygamy in the case of some Old Testament characters, have interpreted this verse in reference to this permission, and as forbidding such cases of polygamy as that of Leah and Rachel, from the bad consequences that sprung from it, because they were sisters. And some men have either not read these commentators, or carefully conceal the fact that on Leviticus xviii. 16 they decidedly give the comment that it prohibits the strictly analogous case of a man marrying his wife's sister, without any qualification of time whatever. This concealment is practised with Henry and Scott and others, who are represented as favouring both the ordinary translation in the text of the Bible, and rejecting the marginal reading, and thus favouring the views of the Libertarians. Calvin is dealt with in this same way. The views of these commentators on the point in debate are concealed, while their negative testimony in behalf of the correctness of the version in the text of our English Bibles is held as proof that they disapproved of the marginal reading; as if their not questioning the accuracy of the rendering in the text, and yet holding and giving the opinion that such marriages were unlawful, were the same thing as both condemning the marginal reading and favouring the view which they actually opposed. This was so much the practice of American writers, that one of themselves,—viz., Marshall, who is characterised by a certain slapdash recklessness—finding that this piece of disingenuousness was so liable to exposure, cautions his readers against it, and admits that the opinions of these authors were against him. Dr Eadie inserts a sort of saving clause, when alluding to Calvin's treatment of Lev. xviii., which will be understood by those perfectly versant in the question, but which would never convey to the ordinary reader the fact that Calvin held most decidedly, with all the Reformed Churches, that such marriages were forbidden by the law of God. In reply to Dr Symington, Dr Eadie says,—“Want of candour is an accusation that neither applies to me, nor to John Calvin or George Bush, who hold the same grammatical analysis, but with a different deduction.” The deduction might, however briefly, have been stated. Truth required it, as it is nowhere else stated in Dr Eadie's letters. The so-called “Free Church Elder” is guilty of disingenuous concealment of the opinions of Scott and Henry, while the writer has reason to be certain that his attention was called to this fact before he printed his letter, so that it could not arise from ignorance. This disingenuous concealment is most unworthy, and cannot be too strongly reprobated. On the actual question the following are the opinions of Henry and Scott:—Henry, on Lev. xviii., while holding it to prohibit incestuous marriages, says, “Marriage is a divine institution; that and the Sabbath, the eldest of all others, of equal standing with man upon the earth.” . . . “These prohibitions (in Lev.

* See p. 16.

xviii.), besides their being enacted by an incontestable authority, are in themselves highly reasonable and equitable." He says again,—“The relations forbidden are most of them plainly described; and it is generally laid down as a rule, *that what relations of a man's own he is bound up from marrying with, the same relations of his wife he is likewise forbidden to marry with, for they two are one.* The law which forbids marrying a brother's wife, ver. 16, had an exception peculiar to the Jewish state, that if a man died without issue his brother or next of kin should marry the widow, and raise up seed to the deceased, Deut. xxv. 5, for reasons which held good only in that commonwealth; and therefore, now that those reasons have ceased, the exception ceases, and the law is in force that a man may in no case marry his brother's widow.” On Luke iii. 19, 20, Henry says,—“Herod the tetrarch being reproved by him (John), not only for living in incest with his brother Philip's wife, but for the many other evils which he had done,” &c.; so that Henry's opinion that such marriages were incestuous cannot be doubted.

The opinion of Scott is more full and decided. “They”—the laws in Lev. xviii. 6–17—“are therefore to be considered either as moral in themselves, or so nearly connected with other moral obligations, as to be proper to be observed by all mankind; and, in general, the wiser heathens have deemed such marriages unlawful, and abstained from them. It is elsewhere enjoined, that if a man died without issue, his surviving brother should marry his widow (*Note—Deut. xxv. 5–10.*) But as this appointment respected special purposes under the Mosaic dispensation, the prohibition of marrying a brother's wife is absolute to us; and, by parity of reason, that of a woman marrying the husband of her deceased sister.” “Severe laws,” he adds, “on this subject seem essentially necessary, and have always been judged to be so by legislators, heathen as well as Christian. Yet if these laws are not obligatory under the Christian dispensation, there is no law of God in force regulating marriages, nor any restricting the intermarriages of the nearest relations.* Did the Lord, then, intend to leave his church under the New Testament wholly without law in this most important concern? or hath he confirmed his own pre-existing law as of moral obligation? St Paul's language concerning the incestuous Corinthians, ‘Such fornication (uncleanness) as is not named among the Gentiles, that one should have his father's wife’ (1 Cor. v. 1), implies that Christians had a rule in this respect, and a stricter rule than the Gentiles;† yet that rule can be found only in this chapter. . . . I must therefore consider those laws as in equal force at this day among Christians as they were formerly in Israel; those implied by parity of reason, as well as those more expressly mentioned, according to the regulation of our ecclesiastical law.” He then gives the ordinary view as to Lev. xviii. 18 as a connivance at polygamy, with the exception of such a case as Jacob marrying Rachel and Leah, and winds it up thus,—“As a woman might not in ordinary cases marry the brother of her deceased husband, it can hardly be supposed that it was allowable for a man to marry the sister of his wife, even after her decease, *though this verse seems not to contain a prohibition of it.*” None who understand the subject assert that it does. It is enough

* With such a consideration before us as this, one is truly sorry to find a man of Dr Eadie's standing characterising as he does, in his letter in the *Chronicle* newspaper of May 29, 1850, the law in Leviticus as “the so-called marriage law of the book of Leviticus.”

† See the admirable passage quoted from Böehmer's “*Jus Ecclesiasticum*,” at page 76.

for our argument that it does not sanction it, as is plainly the opinion of Scott. But this text will fall to be considered still further in the sequel, as also the general subject of polygamy.

Let us now see the opinion of Calvin. It is found at length in his Commentary on Leviticus. On Lev. xviii. 16, on the words, "the nakedness of a brother's wife," he says, "There are bad interpreters, who raise a controversy concerning this place, and explain that a spouse is not to be violently taken (*rapiendum*) from the couch of a brother, that their marriage was unlawful while the husband lived. For it is not suitable to wrest to different senses things which in one place are declared in the very same words. God forbids to uncover the nakedness of the wife of a father, a father's brother, and of a son. When he employs the same phraseology (*sententiam*) in so many words concerning a brother's wife, it is absurd to feign different senses. Wherefore, if it is not lawful to marry the wife of a father, of a son, of a father's brother or nephew, it is proper to think one and the same thing of a brother's wife, concerning which a perfectly similar law is enacted in one context and tenor."

He then meets in his own way the supposed objection from the case of the Leviral law, so often referred to, and concludes his statement on Lev. xviii. 16 thus:—"I therefore hold it as indubitable, that by the law of Moses marriage is forbidden with the widow of a brother-german, being of opinion that the law of Deut. xxv. 5 related, not to brothers-german, but more remote relatives, according to the usage of the word brother, as applied in Hebrew to *all* blood relations."

On Lev. xviii. 18—*Mulierem quoque cum sorore*—a woman with her sister—he says, "Some perverse (*protervi*) men trusting to this text, wish to allow that if any one be deprived of his wife, he may marry her sister-german, because the restriction is added, that he may not take another, the former being alive, whence they conclude that it is not prohibited that she succeed to the place of the dead wife. But it was necessary to draw (*expendere*) the design of the legislator from his express words; because not only is there mention of incest or shame, but of the jealousy and quarrels which thence arise. If it were only said, 'Thou shalt not uncover the nakedness,' not without some colour of reason might they put forth that the husband in widowhood was free to marry the other; but when a different end of the law is expressed, that she who married in good faith be not vexed with quarrels and contentions, it is certain that the license of polygamy was bridled by this exception, that the Israelites, *content with one injustice*, should at least not commit two sisters to hostile contention. Now the condition of the first wife was too hard (*iniqua*) when she was compelled to bear a rival and a concubine, but constantly to quarrel with a blood relative was less tolerable. Wherefore the word sister is not restricted only to sisters-german, but I think that our near relatives are comprehended, of whom otherwise the marriage were not incestuous. In fine, it is not incest so much as the cruelty of the husband which is condemned, if he wishes to marry over and above (*superducere*) the relation of his wife. Nor can we resolve otherwise from the words of Moses; for if the nakedness of a brother is uncovered when a brother marries his widow, not less is the nakedness of a sister uncovered when the other sister marries her husband after widowhood." *

Such are the opinions of Calvin on the disputed passages themselves.

* "Calvini Opera," fol., Amst. 1671, tom i. p. 520.

We have formerly seen his opinions as given in the Synodicon of the Reformed Church of France. It is not easy to see on what ground of any honest or fair argument his authority to any extent is quoted in favour of the lawfulness of the marriage of a man with the sister of his deceased wife; and yet it is asserted with as much confidence by unscrupulous writers, as if it were without any possibility of question to be on that side. Let it be observed, then, that Calvin nowhere rejects the rendering of the margin of our English Bibles, and does not affirm, in contradistinction to it, the rendering in the text. He takes the ordinary rendering, and even with it maintains the opinions which we have quoted; so that Dr Eadie is certainly not entitled to claim Calvin as a coadjutor in *rejecting* the marginal reading, and still less can he be claimed as an advocate of the lawfulness of marriage with a deceased wife's sister. He is decidedly the reverse, and that beyond doubt or question.

Poole, the author of the five folio volume "*Synopsis Criticorum*," in his Annotations on Leviticus xviii. 16, "Thou shalt not uncover the nakedness of thy brother's wife," says, "Neither in his lifetime nor after his death; and therefore a woman might not marry her husband's brother, nor might a man marry his wife's sister, either before or after his wife's death; for so all the prohibitions are to be understood; which will give light to verse 18. But God, who can undoubtedly dispense with his own laws, did afterwards make one exception to this rule, of which see Deut. xxv. 5." It is an important observation, "for so" (that is, whether before or after the death of one of the parties) "*all* the prohibitions are to be understood;" and this certainly does throw light on Lev. xviii. 18. If in the case of all the others the prohibition holds whether before or after death, why should there be an exception in the case of the sisters of the deceased wife? In consistency, therefore, with this view, Poole, on Lev. xviii. 18, says, "The word sister is understood here, either (1) *properly*,—so some; whence others infer, that it is lawful to marry one's wife's sister after her death; or (2) *improperly*, for any other woman, as not only persons but things of the same kind are oft called sisters and brethren; of which see plain examples, Exod. xxvi. 3, and xxxii. 27, 29; Ezek. i. 9, and iii. 13, and xvi. 45, 48, 49. So the sense is, Thou shalt not take one woman to another; and this sense may seem more probable,—1. Because, else here were a tautology, the marriage of a man with his wife's sister being sufficiently forbidden (ver. 16), where marriage with his brother's wife is forbidden; as also ver. 9 and 11. When he forbids the marriage of one's own sister, and consequently the marriage of one's wife's sister, it being manifest and confessed that affinity and consanguinity are of the same consideration and obligation in these matters. Nor can this be added for explication; for then the comment would be darker than the text, nay, it would destroy the text; for then what was simply and absolutely and universally forbidden before, is here forbidden doubtfully and restrainedly, and might, at least, seem to be allowed after the wife's death; which is rejected by those who own the former interpretation. 2. Because the reason of this prohibition, which is, lest he should vex her thereby, is much more proper and effectual against marrying any other woman than against marrying the wife's sister;—so near and dear a relation being most commonly and probably a means to induce them rather to love and please and serve, than to vex one another in such a relation. And therefore to take her natural sister to vex her, would seem a course unsuitable to his

end or design. 3. Some add another reason, that polygamy, which Christ condemns (Matt. xix. 5), is either forbidden here or nowhere in the law. But this may admit of great dispute." He refers the prohibition of polygamy by Christ to Gen. ii. 23, from whence Malachi takes his argument, chap. ii. 14-25. He holds that, as the marrying of two natural sisters was expressly prohibited before, the word sister in the last clause must mean sister in the sense of simply another woman.

The celebrated and learned Italian, Diodati, who became ultimately a minister of the gospel at Geneva, in his Annotations, which were called by the most eminent Reformers of his day, "*Aureis Annotationibus*," Golden Annotations—which were recommended afterwards by the Westminster Assembly, and printed by order of the Committee of Parliament—has the following Note on "Lev. xviii. 18, *Shalt thou take*—Such a conjunction is incestuous (ver. 16); seeing there is the same reason for the sister's husband as for the brother's wife; but here is *also added* the reason of the inconvenience,—it being a kind of confusion to make two sisters rivals to one another, to produce continual strife and jealousies, as an example may be seen in Jacob's marriage, which in the first ages was tolerated." His opinion of the toleration of such a case as Jacob's does not in his mind invalidate Lev. xviii. 16. Of the opinion in the case of Jacob, more hereafter.

It were easy to multiply authorities and quotations of this sort to any amount. I shall give one from the Annotations of the Westminster Assembly. On Lev. xviii. 16, "*Brother's wife*," they have the following Note:—"Neither while he is alive nor when he is dead, except in an especial case, and upon an especial warrant.—Deut. xxv. 5." On ver. 18, "*To her sister*," they say,—"This is to be understood not only of another natural sister, as if a man might have two wives, so they were not such sisters; or two sisters, one after another, to wife,—the latter upon the death of the former; for the marriage of the brother's wife is forbidden before (ver. 16); and, by consequence, a woman must not marry her sister's husband; and so two sisters are already forbidden to be married to one man—(ver. 16.) Wherefore it is most probable that this is a prohibition of polygamy,—that is, *of having more wives than one at once*; and the reason sheweth it, that the one may not be a vexation to the other, which is likely to fall out, not only betwixt natural sisters, as Rachel and Leah (Gen. xxxi. 1, 14), but betwixt those that are not of kin, as betwixt Hannah and Peninnah (1 Sam. i. 6); and for the word sister, in a general acceptation, it may be applied to any woman, as the word *brother* to any man (Gen. xix. 7); and it is to be noted that it is sometimes applied to things, which, in propriety of speech, come not under such a title or denomination,—as the wings of the beast (Ezek. i. 9) are said to touch *a woman to her sister*, as the Hebrew phrase carryeth it."

The authors of these Annotations, in their preface, tell us how they proceeded. They were the most learned men of their time, and were called by the Committee of Parliament to undertake the duty; so that they say, anxious to discharge it for the glory of God and the instruction of his people, "Therefore we have put ourselves to much more pains (for many months) in consulting with many more authors, in several languages, than at first sight we thought of, that (for the propriety of the original text, for pertinent and profitable variety of versions, for consonancy of parallel Scriptures, and for perspicuity in clearing of the darkest places) we might

bring in such observations as might not only serve to edify the ordinary reader, but might likewise gratify our brethren of the ministry,—at least, such among them as have not the means to purchase, or leisure to peruse, so many books as (by order of the Committee) we were furnished with all, for the finishing the work committed to our hands.” They “attest the divine omniscience” that they have not wrested any part of Scripture “to the patronage of any error” of any denomination whatever. “Nor have we added to it any of our own preconceived opinions, to imprint a partiality on our expositions.” “We have not (notwithstanding our most intensive inquiries after the true and genuine meaning of it) rested in any single conceit or construction of our own, nor in any at all as merely human, but (according to that of the apostle, *The spirits of the prophets are subject to the prophets*, 1 Cor. xiv. 32) have submitted our private dictates to the censure and correction of our colleagues in this service, *daily assembled together for the perusal of every one’s part*.”

“And what doubts we met withal which we thought (for the present) too hard to be easily resolved, we put into a particular catalogue, and adjourned their resolution to a day of more deliberate discussion, when our readings were done,” &c. They then go on to state their method, and mention their personal prayers for divine guidance in their personal and united studies and examinations. When one reflects on this course, pursued by these eminent men and their coadjutors, clerical and lay, the learned Selden among the rest, in compiling the Confession of Faith, and in all their labours to discover and state the truths of God’s Word, it is painful to find Dr Eadie, though quoting Baxter’s eulogium on the Confession of Faith, venturing to add the following passage:—“Especially on this question” (the marriage question) “do many of them seem to have erred. They appear, particularly the older of them, to have been in love with their own fancies, and to have cared little for the law and the testimony. Will any one suppose that they based their marriage law on the Bible, when they placed a man’s marriage with his wife’s sister in the same category as his marriage with an actress or a gipsy?” This is a specimen of modern charity of which the Westminster divines would have been heartily ashamed. Such a statement, in the face of what we have quoted, and that, Dr Eadie must pardon me for saying, in a minister and professor of theology in a church whose greatest distinction in former days was, that its ministers not only subscribed, but held and defended the doctrines of the Confession, the compilers of which he treats thus contumeliously, would deserve severer epithets than I choose to apply. Considering Dr Eadie’s learned labours in other departments, I regret much to be compelled to speak as I must do of his ill-advised Letters on the present question.

Section VIII.—Marginal reading of Leviticus xviii. 18.

Before proceeding to consider the import and bearing of the marginal reading of Lev. xviii. 18, on the question under discussion, we must carefully observe what is made to rest upon it on both sides of the question. With our opponents their whole argument rests on the rendering of this verse, and on their being able to prove that it sanctions polygamy and only forbids the bigamy of two sisters, or marriage with both during the lifetime of both, and implies the lawfulness after the death of the first wife of marrying her sister. If they fail in any one of these points, the general principles of the chapter all

militerate against them. They must prove that this 18th verse is an exception to the principle of the 16th verse. They have no direct law on their side, either in principle or express terms. At the best, their argument is only an inference from a supposed exception. I say supposed, for to take for granted that it is an exception, while it has neither the place nor the form of an exception, is to beg the whole question. On their own showing, it occurs in the form of an inference from the prohibition of the bigamy of two sisters. Their allegation is that this bigamy is forbidden during the lifetime of the first married. Their inference is that it is lawful at the death of the first married, and this inference they carry back over several intermediate prohibitions of marriages of a different sort, to get at the nullification of the prohibition in the principle of verse 16. If, then, they cannot maintain the unquestionable accuracy, not only of the literal rendering, but of the actual meaning, idiomatically or not, of verse 18, as in our translation, and the accuracy of their inference also, their whole cause is lost. No wonder, then, they make a death-struggle on this text.

What, on the other hand, is the state of the argument with us? It depends, in the first place, on great general principles, which the greatest minds, both theologians and jurists, who have had any respect to God's Word, have been compelled to admit. And, secondly, on direct texts, Lev. xviii. 16, and xx. 21—requiring no other inference than this, that what is forbidden in marriage as incest to a man, is forbidden as incest to a woman, and *vice versa*. Our argument stands untouched in itself, even although we should admit, which we by no means do, that polygamy was lawful in God's estimation, and that Lev. xviii. prohibits *only* such a case of it as that of Jacob taking to wife both Leah and Rachel, of which more in the sequel. On this supposition, it forbids expressly the polygamy of sisters, for our opponents have no right to limit it to *two* sisters. Their statement is, Polygamy is not forbidden. But it is forbidden in the case of sisters. Why, what does that mean? Of course that there was something unlawful in the simultaneous marriage of sisters. But this kind of polygamy Jacob, who was a good man—one with whom God entered into covenant—was guilty of, contrary to the will of God. Why, in these circumstances, if, as our opponents allege, there is nothing essentially wrong—nothing incestuous—in a man's marrying two sisters, provided the one be dead before the other has been married, did not the conduct of Jacob, on the "good man" argument, which sanctions polygamy in all other cases, sanction also contemporaneous marriage with two sisters? If the alleged conduct of Abraham and David is, on the ground of their being good men, held to sanction polygamy of the ordinary sort, why should not the conduct of Jacob, who was a "good man," be also held to sanction bigamy in the case of sisters? Why, instead of doing so, should it, on the contrary, have called forth a pointed law to condemn such a practice? To my mind the idea of a law made by God, to meet a case, after it occurred in one family, is ridiculous; and there is no proof, but the very reverse, that it was by any means a common practice among the heathen to marry two sisters at once. The sin forbidden is forbidden, though Jacob, upwards of 400 years before the giving of the law from Sinai, had been guilty of it. By the sanctions and threatenings at the beginning and the end of Lev. xviii., it is proved to have been a *crime*, as Grotius calls it, among the nations. There was in these incestuous connections—incestuous connections which death cannot alter—that which rendered them so abominable in the sight

of God, that even the conduct of Jacob could not sanction them. And, therefore, as our opponents contend that polygamy was lawful, they cannot object to those commentators who do not see their way to cast a stone at Abraham and David as altogether regardless of God's law; yet, nevertheless, even when on that ground they hold that Lev. xviii. 18 refers to the case of Jacob, do not feel themselves warranted to set aside the clear prohibition in Lev. xviii. 16, and xx. 21, and the great general principles which rule their application to all men.

Well, then, the whole strength of the argument of our opponents must rest on the supposition that verse 18 forbids polygamy only in such a case as that of Leah and Rachel, and on the inference which they draw from the word "life," the word *time* being neither in the original, nor in our version as part of the translation, but as a word supplied. Our argument, then, is not overthrown, nor even materially affected, whether we can make out the marginal reading of our version to be the true translation and meaning or not. But the argument of our opponents has not a vestige of Bible principle or authority to support it, unless they can make out the marginal reading to be positively false, and their meaning of our version positively true. Let it be observed farther, that the task they have to make out is, that the doings of certain men, who were made eminent subjects of God's special grace, mercy, and favour, sanction a connection which violated both God's own original universal law, given in words, and founded on his very act of creating only one woman to one man; and also this same law solemnly renewed or rather declared by himself—the same Lawgiver—the Lord Jesus Christ personally on earth. Have they done, or can they do, all or any of these? Let us see.

It will be observed that hitherto our argument has been conducted on the footing of the correctness of the translation in the text of our English Bibles of Lev. xviii. 18—"Neither shalt thou take a wife to her sister." We have seen that, taking this to be the exact and unquestionable rendering, the most eminent commentators have held that it did not alter in the least degree the prohibition of the marriage of a man with the sister of his deceased wife, deduced from Lev. xviii. 16, and Lev. xx. 21; that even with the apparent difficulty created by this rendering the prohibition still holds. But if the phrase admits of another rendering, which removes the difficulty altogether, the argument is then complete, entire, and, on Bible ground, indubitable.

The marginal reading of the English Bible is the following:—"Thou shalt not take one wife to another," or one woman to another in marriage, and is thus an express prohibition of polygamy. Taking this translation to be true, taking it even to be not inconsistent with the Scripture use of the phrase, it is at first sight a strong argument in its favour that it makes the whole *legislation* of the Almighty on the subject of marriage, at the creation and by our Lord Jesus Christ, entirely and perfectly consistent and uniform, and harmonises with the antecedent improbability that there should be a formal intermediate exception made in the solemnities of Sinai to God's original law. To plead such an exception on the ground that good men had broken the law, is to introduce a principle which would subvert ten thousand times over the whole commandments of the moral law in their principle and issue, and most of them in their literal meaning, the sixth and the seventh not excepted. Of this more hereafter. But if this marginal reading be positively false, we cannot, even for such important ends,

venture to adopt it. This would be to make ourselves wiser than God. But is it false?

It is unwarrantably taken for granted that our translators preferred the rendering in the text. An American writer, quoting a statement in one of their periodicals, that the marginal rendering is of equal authority with that in the text, says, the author of it is surely mistaken, and proceeds to affirm,—"First of all, the translators of our common version had both translations under consideration, and preferred the literal one."* But what do the translators themselves tell us? Something very different indeed; and it is providential that we have the means of settling this point as conclusively as we have done in regard to the Westminster Assembly's annotations.

Those who are at all entitled to be heard on such a subject, know what was the character of the Synod of Dort. It was composed of men formally commissioned from all the Protestant states of Europe—commissioned by the highest authorities, civil and ecclesiastical, of these states—selected as the most learned men which the churches and universities of these various states, whether monarchical or republican, could furnish. Their very names and designations cover several quarto pages. The following curious extract shows both the opinions of the English version held by that august assembly, and the fact regarding the authority of the marginal reading. I give a translation of the whole. Those who wish to test its accuracy, will find it in the "*Acta Synodi Nationalis Dordrechtanæ*," p. 27. Hano-viæ, anno 1620.

"Session vii., 10th November, Tuesday, antemeridian,—

"The theologians of Great Britain explained in writing by what plan, and by what means, the business of the most accurate English version was appointed by the Most Serene King James; what plan was observed in the distribution of the work; also what laws were prescribed to the translators; that those things might thence be taken which might be judged of use to us. A copy of that writing is subjoined:—

"*The mode which the English theologians pursued in the version of the Sacred Books (Bibliorum).*—The theologians of Great Britain, to whom it did not seem meet to give a sudden and immature answer to so great a question, have judged it to be their duty, after careful deliberation had, since the most honourable mention has been made of the most accurate English translation, lately published by the Most Serene King James, with great care, and at great expense, to make known to this most celebrated Synod, by what plan, and by what means, this sacred business was effected by his Most Serene Majesty.

"First, in distributing the work, he wished this way to be observed:—The whole body of the Sacred Book was distributed into six parts. For translating each part, seven or eight chief men, most skilled in the languages, were appointed. Two parts were assigned to certain theologians of London; but the four remaining parts were divided equally among the theologians of each university of Oxford and Cambridge. After the task was completed by each individual from all of these (of course, forty-two or forty-eight in number), twelve select men, assembled in one place, revised and corrected the whole work.

"Lastly, The most reverend the Bishop of Westminster, Bilson, along with Dr Smith, now Bishop of Gloucester, an illustrious man, and from the

* "*Lawfulness of Marriage.*" By the Rev. William Marshall.

beginning most versant in this whole work, all the parts being maturely considered and examined, placed the last hand to this version.

"The laws prescribed were the following :—

"First, Care was taken that the new version should not only be prepared, but the version long received by the church should be purged from all blemishes and faults; and that for this end there should be *no departure from the ancient translation, unless the truth or emphasis of the original text demanded it.*

"Second, That *no annotations* should be placed on the margin; but only parallel places should be noted.

"Third, That where a Hebrew or Greek word admits a twofold fit (*idoneum*) sense, the one should be expressed in the text and the other in the margin,—which was in like manner done when a various reading was found in approved versions.

"Fourth, The more difficult Hebræisms and Græcisms have been placed in the margin."

The remaining rules bear on other points.

The document concludes with the declaration by the Synod of Dort, that "the most famous doctors, professors of the universities, and illustrious schools of the Netherlands, at length declared their opinion of the necessity, advantage, and plan of instituting this work."

From this interesting document we learn,—

1. That the English version had the advantage of the whole resources of England to command leisure and facilities to the translators.

2. That they had all the books, versions, and manuscripts which the English universities, royal repositories, and other literary treasures of England, could furnish.

3. That about fifty of the most learned men were laboriously engaged in the work.

4. From rule first, it appears they never deviated from the ancient translation, but when truth demanded it.

5. From rule second, that the marginal reading was not an "annotation," or explanation, but a veritable translation.

6. From rule third, that they held it to be, at least, of equal authority with that in the text, "*Geminum idoneum sensum*,"—*a double fit sense.*

7. Why did they put the one in the text, then, rather than the other? They must make a choice; and by rule first we see that truth compelled them not to be ruled merely by any previous version, and so they deviated from it by a marginal reading. In these circumstances, we should be entitled to hold that they even preferred the marginal reading; most certainly they did not, as appears by rule third, *prefer* the reading in the text as better than that in the margin; on the contrary, they held the latter fit and proper—"idoneum."

8. The learned Synod of Dort approved of this plan.

The rules laid down for the conduct of the English translators are to be found in Fuller's "Church History of Britain," cent. xvii. tenth book, sect. iii. They differ slightly from those given to the Synod of Dort, the deputies to which may, however, be presumed to have been correctly informed. The names of the illustrious translators, and their designations, are given at length in Fuller, with other interesting facts and notices. Any one wishing to see the sources of information on this interesting subject, will find them enumerated in the volume of Essays reprinted from the

Princeton Review, London, 1847, p. 306, in a very able article on the English Bible.

From all this we conclude that no version, ancient or modern, is entitled to more respect than the English one. The same American writer, whose dictum we have here so thoroughly disproved, adds, "All the ancient versions, the Chaldee Paraphrast, the Targum of Onkelos, the Samaritan, the Syriac, the Arabic, and the Jewish Rabbins, adhere to the literal construction." "The Seventy Interpreters, who were all Jews, gave the literal translation when they translated the Hebrew Bible into Greek, which had not the Hebrew idiom." All of these, with the exception of the Greek, being cognate languages, the form of expression will be, of course, the same as the Hebrew. But it is not true that they all translated the phrase a *wife* to her sister. But some of them used the phrase a *woman*, not necessarily a wife, to her sister, — a very different thing. Besides, they flourished in the most corrupt period of Judaism, and, from the prevalence of the practice, held the previous opinion that polygamy was lawful, and they would not give a rendering which positively condemned it, if they could give another with any colour of plausibility. The writer in question adds,—"Of commentators, we claim for the common translation, Calvin, Poole, Fry, Hammond, Doddridge, Henry, Gill, Scott, Clarke, and Sir William Jones." He admits, however, with more prudence than some of his coadjutors, that Calvin, Henry, Gill, and Scott, take the other side of the question. He might have told the same thing of Hammond and Poole; and moreover, as we have seen that Poole adopts the marginal reading, we shall now show that Hammond does the same. Nothing can be more express or definite than Hammond's opinion.

In "The Second Quære of Resolving Controversies," found in the London edition of his works, folio, 1684, Hammond discusses very ably and learnedly the question of the lawfulness of marrying a deceased wife's sister. In his first paragraph he states the prohibition on the ground of Lev. xviii. 16, and concludes it thus: "And for this there need not any farther *proof* be brought than that *text*, nor inquiry be made of the *reason* of God's doing so, than this *will* of his, that being *reason* sufficient to those to whom is *prohibition* given, till it be by him freely *superseded* or *suspended* again." He discusses the subject of positive laws, law of nature, law of creation, and grounds of difference and obligation; and after showing *why* "positive laws are dispensable," and referring to the case of the immediate descendants of our first parents, and of the marrying the wife of the deceased childless brother, he says, in reference to the laws of incest,— "Which laws, notwithstanding, being not in *universum* repealed, or as far as concerned *mankind* in *general*, but farther confirmed either by the law of Moses or of Christ, have since then continued *obligatory* to all to whom they were not *actually* *dispensed* with; and consequently are to us *Christians* now in the same *force* that among all the nations of the world they always were, i.e., as *truly* (though not in the same kind) *obligatory* to us *Christians* as the *law of nature* is in all other things; because, though they were always *capable* of being *dispensed* with by the *Lawgiver*, as the *law of nature*, in the respects forementioned, is not, yet these have not to us been *actually* *dispensed* with, but by stricter precepts of *Christ* confirmed upon us.

"Having therefore cleared the prohibition of marrying the *brother's wife* from that one *prejudice*, it will now, *ex abundanti*, be observable, that how-

ever this were *afterward dispensed* with to the Jews, yet, 1, when it was given them, Lev. xviii. 16, it was given as absolutely as any other of the prohibitions in that chapter; particularly as that of *taking* the father's wife, which is acknowledged most incestuous. It was *enforced* with the reason, it is thy brother's nakedness, *i.e.*, by being thy brother's wife she and thy brother are so perfectly *one flesh* that thou mayest no more *marry* her than a *sister* may marry a *brother*." He then shows that conjugal unity is the ground of affinities; that propinquity is the ground of the interdicts; that marrying the wife's sister is forbidden by the Jewish law, and not superseded in Deuteronomy. "The first of these appears by the parity of reason. And the Jews have resolved in this matter, even those of them (the Karaites or Scripturarians) that bind themselves most to the Scripture rule, 1, That there is place for argumentation and deduction from the words of the law; and, 2, That whatsoever can be deduced thence, either *a fortiori* or *a pari*, either because the *remoter* degree is prohibited or that which is *equally remote*, is to be deemed piously and rightly concluded. Thus when, ver. 7, the *father* and *mother* are both *named*, and, ver. 12, the *father's sister*, and, ver. 13, the *mother's sister*, and, ver. 14, the *father's brother*, yet the *mother's brother* is not named, nor the *sister's daughter*, which would be equivalent with that. And yet this being the marriage of the *uncle* on the *mother's* side with the *niece*, which is of the same distance with the *uncle* of the *father's* side with the *niece*, and the *aunt* on the *mother's* side with the *nephew*, from the *naming* and prohibition of these, ver. 13 and 14, by the *parity of reason* that which is not named is by all resolved to be *prohibited*.

"And just thus it is in this matter: That if the *wife's sister*, which is not named, being directly the same degree of *propinquity* that the *brother's wife*, which is *named* and *prohibited*. And that will appear by either of the two ways of *measuring* the *propinquity*, the *wife's sister* being as near to the *husband* as the husband's brother is to the *wife*, and the *sister's husband* as near to the other sister as the *brother's wife* can be to the *other brother*. And accordingly the Scripturarian Jews, as well as the rest, do resolve, That a man is forbidden to marry *לשני שארים*, *two* which are *kin* to one another, and specific in a *woman* and *her* sister.

"And if by the English reading of our Bibles, Lev. xviii. 18 ('Neither shalt thou take a wife to her sister to vex her, to uncover her nakedness, beside the other in her lifetime'), it be thought that the marrying the wife's sister, *in her lifetime*, be the only thing forbidden, and consequently that to marry her after the wife's death is not forbidden, that will be presently answered from the *margin* of our translation, where the Hebrew *אל אחותה* (γυναῖκα ἐν ἀδελφῇ αὐτης) is fitly and truly rendered, not [a wife to her sister], but [one to another], and so is a direct prohibition of polygamy, at least when the first wife is defrauded and vexed by the taking in of the second (as shall appear in the discourse on polygamy, sect. 7), but not a permission to marry any that was otherwise prohibited. And that this is the meaning of the place may be first more generally concluded from the variation of the style in *this* from the former verses. The former interdicts had been given on the reason of *propinquity*, and accordingly that reason distinctly mentioned first in general, ver. 6, and then pursued in all needful particulars to the end of ver. 17. But the interdict here is upon a *new reason*, that of *vexing*, which is an evidence that the first sort of interdicts (continued for twelve persons) is now quite finished,

and that *another* head is begun against *more wives than one*; and accordingly upon that ensue all divers other *new* and particular commands to the end of the chapter.”

He then discusses this point at length in connection with the subject of polygamy; maintaining the justice of the Karaite rendering of “one to another,” instead of a woman or wife to her sister. Then follows a very learned, and condensed, and able discussion of the whole subject.

He shows that it was their views on polygamy that made other Jews reject this interpretation of Lev. xviii. 18. It is from the same presupposed views of the lawfulness of polygamy, and not from any just principles of criticism or exegesis, that some moderns have attempted to get rid of the marginal reading. Hammond, on this point, makes the following most pertinent observations:—“And therefore, 1, it was but a *shortness of discourse* in those Jews that thought their *charter* for their *beloved polygamy* so deeply concerned in this *interpretation* of those words; and, 2, the greater their *interest* was conceived to be, the less will their *authority* be able to persuade *others*. And, however, the Kareans, those that *profess*, and by their name are *acknowledged*, to keep close to the *letter* of the sacred precepts, are less likely to mistake, by enlarging the literal sense of it, than any others who, from this subsequent permission and customary practice of polygamy, and their known zeal in that cause, whereby their lusts were so highly gratified, have been induced to that after-interpretation. And of Maimonides 'tis evident (which of all those Hebrew writers hath the reputation of the most *sober* and most *skilful* in their *learning*), that in his opinion by this chapter of Leviticus are forbidden the conjunctions of those that are nearest to one another *by marriage* as well as by blood, in which number the wife's sister must needs be acknowledged to be included, none being imaginable to be nearer.”*

Perhaps it may not be out of place here to notice the opinion of Patrick in his commentary on Lev. xviii. 18. After stating that “there are a great many eminent men who follow the marginal reading,” he rejects it on the ground that if received it would prohibit polygamy, which he thinks there is reason to believe was allowed. But he does not reject it on any ground of just criticism. It will appear in the sequel that it cannot be rejected on any such ground. But Patrick, on the words “in her lifetime,” says, “From hence some infer that a man was permitted to marry the sister of his former wife, when she was dead. So the Talmudists” (not all, most certainly); “but the Karaites thought it absolutely unlawful, as Mr Selden observes, lib. 1, De Uxore Heb., cap. 4. For it is directly against the scope of all these laws, which prohibited men to marry *at all* with such persons as are here mentioned, either in their wives' lifetime or after. And there being a prohibition, ver. 16, to marry a brother's wife, it is unreasonable to think Moses gave them leave to marry their wives' sister. These words, therefore, ‘in her lifetime,’ are to be referred, not to the words ‘neither shalt thou take her,’ but to the next, ‘to vex her,’ as long as she lives. Chaskuni refers it to both the sisters, according to the *Targum*, and makes this the sense: *lest they should both be afflicted widows as long as they live*. For nobody would marry either of them, being defiled by such an incestuous conjunction, for which God cut off their husbands.”

The writer is gratified to find that the first view which he took from simply reading the Hebrew, viz., that the *vexing*, *rivalling*, *affliction*, or

* Hammond's Works, *ut supra*, vol. i., pp. 581, 582, 585.

whatever it was, referred to both women, has been confirmed by the opinions of some of the ablest scholars and commentators.

Adam Clarke, on the place, gives no decision in favour of either the one translation or the other. His commentary is most doubtful and hesitating, and is as much against as for the lawfulness of such marriages. On Lev. xviii. 16, "*Thy brother's wife*," Clarke says:—

"This was an illegal marriage unless the brother died childless.

"Lev. xviii. 18, '*A wife to her sister*.' Thou shalt not marry two sisters at the same time as Jacob did Rachel and Leah; but there is nothing in this law that rendered it illegal to marry a sister-in-law when her sister was dead; therefore the text says, 'Thou shalt not take her in her lifetime, to vex her,' alluding probably to the case of the jealousies and vexations which subsisted between Leah and Rachel, and by which the family peace was so often disturbed. *Some think that the text may be so understood as also to forbid polygamy.*"

It is obvious from this passage that Clarke had no very definite opinion on the subject; and most certainly he gives no opinion against the marginal reading, and very little proof that the subject had occupied his mind at all.

Where the opinion of Doddridge* is found I do not know, and cannot test it. As to Sir W. Jones, we have not heard of him as a Scripture commentator.

What, then, are we to think of men who not only do not scruple to hold the commentators who do not question our translation, to be therefore critically opposed to the marginal rendering, though they maintain the unlawfulness of such marriages without it; but who, either through most culpable ignorance or wilful deception, have falsified altogether the opinions of such men as Poole and Hammond?

There is another Clarke, whose opinion is to the full as valuable as that of Adam Clarke—viz., the celebrated Samuel Clarke. In his Family Bible, Glasgow edition, folio, 1765, he has the following note on Lev. xviii. 16, "*Thy brother's wife*," chap. xx. 21; Matt. xiv. 4 (It is not lawful for thee to have her), except in that case, Deut. xxv. 5. And it holds equally against a man marrying a wife's sister, or a woman marrying her husband's brother. "*Thy brother's nakedness*," *q. d.* She is as nearly related to thee as thy brother, and therefore thou shalt not marry her."

On verse 18—"Neither shalt thou take a wife to her sister" (and on the margin he has, "or *one to another*,") "*i. e.*, to any other woman, to vex her, 1 Sam. i. 1-6; Gen. iv. 19-23, and xxx. 15: viz., purposely for that end; for it seems not to be so much the thing itself, as the end or design of doing it, which is *here* condemned." His notes on Deut. xxv. 15, and Mal. ii. 15, further show he held the marriage in question and polygamy alike to be condemned in the Old Testament.

Who the Fry here alluded to by the American writer above quoted is, it is not easy to tell. I presume it is not the Rev. John Fry, who recently published the excellent Lectures on the Romans, and other works, but has not, so far as I know, published any Commentary on the Old Testament. It probably is another John Fry, who is sometimes referred to by writers on the other side, who published a small

* In all probability this American writer has seen the opinion of a Dr Dodd, which opinion Dodd gives on the authority of Selden, and whose opinion, I believe, Dr Dodd altogether misapprehends. At all events, it shows what little dependence can be placed on the statements of learned divines who quote great names at random.

book in 1756, which he dedicated to the king, and entitled, "The Case of Marriages between Near Kindred Particularly Considered." In his preface he attempts to gain the ear of royalty, by pointing to the great advantage which may arise to the royal family, in its numerous branches, by allowing marriages "between some who are near of kindred,"—a doctrine which has not been disagreeable to dispensing popes and monarchs of the Julius and Henry VIII. description. He professes to vindicate Scripture against the charges brought by infidels against the Scripture morality, from the conduct of Abraham and others, by showing that their intermarriages "were not contrary to the law of nature, nor forbidden by any positive law of God before the introduction of the Mosaic dispensation," and that there was no just cause of reproach against them. But Bolingbroke assailed Scripture in the opposite way, on the ground that marriages were forbidden in Scripture which were not contrary to the law of nature. Mr Fry attempts to get quit of both difficulties by proving, or rather makes use of both difficulties to help him to prove, on the one hand, the general proposition that marriages between "near kindred" are not contrary to the law of nature; and, on the other, that the law of Moses does not bind us; and that, as Mr Binney reasons, Christianity makes it unnecessary. He not only goes the length of asserting the lawfulness of marriages between uncle and niece, and between brothers and sisters-in-law, but seems very doubtful if marriages are forbidden in almost any degree of relationship. When he comes to the law of Moses, he takes up the ground that it is not incestuous marriages that are forbidden in Leviticus at all. He boldly assumes the position that what was allowed at the creation, in a state of innocence, and practised by the best of God's people, could not be forbidden by the law of Moses. He finds the opinions of the Jews to cross his path, and, therefore, unlike his modern followers, instead of making their authority *great* in such a question, he sets himself to prove, and proves very well, that their authority is *very little* to be regarded. We have not observed his modern followers profiting by this portion of his book, and shall therefore give our readers the benefit of an extract:—

"There is no reason (that I can find) to think that the Jews took those laws to be prohibitions of marriages with near kindred till since the time of their royal prophet King David, but great reason to think the contrary. And after that time they fell into the most detestable idolatry (as has been already shown), and before the reign of Josiah, king of Judah (which was more than six hundred years before the time of our blessed Saviour), it seems they had forgotten what their law was (Hosea iv. 6; 2 Kings xxiii. 23; and 2 Chron. xxxiv. 18, &c.); no wonder then if they had forgot the true sense of it.

"All the *Jewish* traditional books were composed long since the times of their prophets; most of them since our Saviour's time. What authority, therefore, can they be of?

"Our blessed Lord himself, when here on earth, observed that the Jews, by their traditions, transgressed the commandments of God, and made them void and of no effect. No regard can be therefore due to such traditions."—(Pp. 36, 37.)

In his notes, Fry proves incontestably that no trust could be put in these Talmudical writers, even as to plain matters of fact. Whether all this tends to elevate very highly as an authority the great modern pillar on which statesmen and divines of the present day rest their cause,—viz., Dr

Adler, "the Jewish high priest," by whose dictum even my Lord Denman settles the controversy,—the reader will judge. About one-half of Fry's book of 146 pages is taken up with discussing the law of England, and objecting to the propriety of determining questions of marriage in the ecclesiastical courts; and he specially sets himself to prove the error of Sir John Vaughan's opinion when he said, in the case of Thomas Hill, who had married the sister of his deceased wife, "First, I affirm (said Lord Chief-Justice Vaughan) this marriage to be expressly prohibited in 18th of Leviticus, and then it must be within the prohibited degrees."

So far as I have been able to discover, Fry has never entered on the question of the relative value of the translation of the text and margin of Lev. xviii. 18 at all, and yet his authority is claimed as of some moment against the marginal reading.

Having discovered the absolute necessity of taking nothing which the writers on the other side say upon trust, I have looked into Dr Gill's commentary, and am tempted to give his clear and decided exposition of Lev. xviii. 16–18. On verse 16, "Thou shalt not uncover the nakedness of thy brother's wife.—Neither debauch her, nor after the death of thy brother marry her, that is, unless he dies without issue; and then, by another law, he was obliged to marry her, Deut. xxv. 5; hence the Targum of Jonathan adds, by way of explanation, 'in the life of thy brother, or after his death, if he has children,' but that then that law was but an exception from his general rule, and so did not make it void in other respects, but bound it more strongly; and, besides, it was a special and peculiar law to the Jews, until the Messiah came, to make it manifest of what tribe and family he came; and the reason of it ceasing, the law itself (Deut. xxv. 5) is ceased, and so neither binding on Jews or Gentiles; hence, John the Baptist told Herod to his face, that it was not lawful for him to have his brother's wife, Matt. xiv. 3, 4; and even such marriages were condemned by the very heathens." Of this he gives proofs, as also that they were condemned by the early Christians. He adds, "Now, by this same law, if it is not lawful for a man to have his brother's wife, then it is not lawful for her to have her sister's husband; or, in other words, if it is not lawful in a woman to marry two brothers, then it is not lawful to a man to marry two sisters; the case of Jacob will not countenance such a marriage, since he was imposed upon and deceived; and such marriages have also been disapproved by the heathens and Christians." On verse 18, believing that polygamy "was connived at," he held the opinion that this forbade the simultaneous marriage of two sisters. He does not condemn the marginal reading. He does not think that reading necessary to the defence of the doctrine established by Lev. xviii. 16. The prohibition of two sisters only strengthens it, "because," he says, "it was a filthy and unbecoming action to uncover the nakedness of one, or lie with one so nearly related to his wife." Every man of any delicacy, or of any affection to his wife, *feels* the truth of this. The death of a wife will not destroy its "filthiness." "It is an abomination."

On the words, "Beside the other in her lifetime," Gill says, "From whence some have concluded, and so many of the Jewish writers (he gives the references in the margin), that a man might marry his wife's sister after her death, but not while she was living; but the phrase, '*in her lifetime*,' is not to be joined to the phrase, '*thou shalt not take a wife*,' but to the phrase more near, '*to vex her in her lifetime*,' or as long as she lived, and

to *uncover her nakedness by her* (apud vel prope eam), on the side of her, as long as she lived; for a wife's sister to be married to her husband even after her death, cannot be lawful, as appears from the general prohibition, ver. 6, '*None of you shall approach to any that is near of kin to him*;' and yet it is certain that a wife's sister is near akin to a man; and from the prohibition of marriage with an uncle's wife, with the daughter of a son-in-law, or of a daughter-in-law, ver. 14, 17. Now, a wife's sister is nearer of kin than either of these; and from the confusion that would follow, in case of issue by both, not only of degrees but appellation of kindred, one and the same man, who, as a father of children, and the husband of their mother's sister, stands in the relation both of a father and an uncle to his own children; the woman, to the children of the deceased sister, stands in the relation both of a stepmother and of a mother's sister, or aunt; and to the children that were born of her, she stands in the relation both of a mother and an uncle's wife; and the two sorts of children are both brethren and own cousins, by the mother's side; but of this see more, ver. 16. Some understand this of a prohibition of polygamy, rendering the words, 'Thou shalt not take one wife to another;' but the former sense is best, polygamy being not expressly forbidden by the law of Moses, but supposed in it and winked at by it." So that his opinion for its being "*best*" is not founded on any critical ground or disapproval of the marginal reading on that score, but on his opinion of polygamy, which the law of Moses, he says, "winked at,"—a saying which is obviously a begging of the question. And though the Bible had used the expression "winked at" in this case, it would no more have been an approval of it than that the saying of Paul, "The *times* of this ignorance God winked at," was an approval, or even non-condemnation, of the idolatry, impurity, and crimes of heathen "*times*," till God by Paul commanded all men to repent.

We believe we might hazard the assertion, without any very formidable contradiction awaiting us, that there is not any Christian commentator of real note in the Christian world, as a commentator and expositor of Scripture, who holds the out-and-out doctrine, that by the law of God as given by Moses, marriage with the sister of a deceased wife is lawful. The following names, given by Dr Eadie, are no exception, not one of them being of any note as commentators or expositors of Scripture, whatever else they may be,—Chalmers, Whately, Thirlwall, Wesley, Bunting, Robinson, and many more divines, with all the great names in Hebrew philology and commentary; men who, released from the solemn frippery, tedious casuistry, and perplexing despotism of the canon law," &c. The words "*canon law*" have a bad odour in these times; but those who despise it as mere "*frippery*," and as destitute of any ability or sound and scriptural reasoning on any point, will lead all who have really studied it to doubt their competency to give an opinion of its merits.

There is one which the London Association parades as a great authority, viz., "*MENOCHIVS*." Had they affixed his designation as given in his Commentary, "*Societatis Jesu S. Theol. Doct.*," Doctor of Theology of the Society of Jesus—briefly, "*Jesuit Doctor*"—it would have been of use to the unlearned to help them to discover what value is due to their righteous indignation against the canon law, and the alleged Popish origin of the doctrine we maintain. The truth is, of all the writers we have ever had to do with, it is true of the mass of these writers that, in idiomatic phrase, "all

is fish that comes into the net," though, when the draught is shaken out and examined, it is found that the larger have devoured or sadly mangled the smaller. On ver. 16, Menochius says nothing, but gives the exception, Deut. xxv. 5. On ver. 18, "*Sororem uxoris tuæ.—Vetatur, ne quis simul duas sorores habeat, cum tamen prius fuisset licitum, ut discimus ex facto Jacob, qui Leam et Rachalem sorores duxit,*"—that is, "It is forbidden that any one should marry two sisters at the same time, although it had been formerly lawful, as we learn from the fact of Jacob, who married Leah and Rachel, sisters." The "fact of Jacob" as a fact is that he was deceived, and as a fact it has no earthly authority whatever. But the Jesuit has furnished them with the following important addition as his whole contribution, and which the London Association has duly extracted into its catalogue of opinions. On the words of the Latin Vulgate, which, with all its errors, he is bound by the decrees of Trent to hold canonical, "*Adhuc illa vivente,*" he says, "*Quia mortua illa poterant accipere sororem in conjugem,*" "Because she being dead, they could take a sister to wife."* An "opinion," truly, but not a proof. By the way, the London Association, rather in the spirit of the worshipful "Societ. Jesu," quote Adam Clarke in juxtaposition with Menochius, both imperfectly and unfairly, without telling what law he is remarking on, when he says, "There is nothing in this law," &c. viz. Lev. xviii. 18, "to forbid such marriages;" but this is not his opinion on the whole question.

But the question still remains, Can the marginal reading be maintained on its own merits? Or, on the other hand, Do, or can, the writers on the other side prove it to be false?

What, then, is the state of the question as to the marginal reading? Does it require any very great extent of Hebrew scholarship to try its justice? If it do, we have that amply on our side, as we shall presently proceed to show. But in the meantime I observe that, in point of fact, it requires no other Hebrew scholarship than to be able to verify the actual fact, that the word rendered "sister," or, in the masculine form, "brother," means radically fellow, or associate, and when preceded by the masculine or feminine noun signifying a being or substance, signifies the fellow of that being or substance, or, in other words, an object to its fellow, whether having life or not, and that it is used in this sense in thirty-five instances in the Scriptures, in only one of which,—that before us,—it can mean one woman to another. In this one, from the scope and context, it requires to be the human being, and that female; but, from the universal idiomatic meaning, must, in all reason and fair interpretation of language, in the proportion of thirty-four to one, be held one female to another, and therefore has no relation whatever to the question of a man marrying his wife's sister proper.

Let the reader observe, that the difficulty respecting the passage in question (Lev. xviii. 18), "*A wife or woman to her sister,*" אִשָּׁה אֶל אֲחֹתָהּ (ishah el acothah), has not arisen so much from any difference of opinion as to the meaning of each separate word—for both parties admit the meaning above given to them—as from the question, whether the words, in their present connection and relation, are each to be interpreted literally, or all interpreted together as an idiomatic phrase, or, in other words, a phrase having a peculiar appropriate meaning,—viz., "one to another." It is needless to spend time in showing that, in all languages, there are phrases

* Menochii Societ. Jesu S. Theol. Doct. Commentariæ, &c. Antverpiæ, 1679.

having an idiomatic meaning which natives understand, but which, if rendered literally by a stranger, would only excite an indulgent smile at his ignorance. The matter is stated very simply and clearly by Mr Dwight, as follows:—

“The question then meets us, Do the Hebrew writers give to the phrase in question, *אִשָּׁה אֶל אָחֳתָהּ*, a woman to her sister, the simple meaning of the words; or do they use it as an idiom? This we can determine by referring to the passages in which it actually occurs.*

“This phrase is found in two forms,—in the masculine, *אִישׁ אֶל אָחִיו*, (*ish el auchio*), a man to his brother; and in the feminine, *אִשָּׁה אֶל אָחֳתָהּ*, (*ishah el acothah*), a woman to her sister. In the masculine form it occurs twenty-five times in the Hebrew Scriptures, and in the feminine ten. I will adduce the several instances for the satisfaction of the reader. He will perceive that the Hebrew writers never intend by it a brother, or a sister, in the literal sense, but always one thing to another of the same kind; that if applied to men it denotes, not a man to his brother, but one man to another; if to women, not a woman to her sister, but one woman to another; and if to the curtains of the tabernacle, one curtain to another, &c.

“1. Gen. xiii. 11, ‘And Abraham and Lot separated themselves—the one from the other’—In the Hebrew, *אִישׁ מֵעַל אָחִיו*,—literally, a man from his brother; correctly, one man from another; or one from another.

“2. Gen. xxvi. 31, ‘And Abimelech and Isaac sware—one to another’—In the Hebrew, *אִישׁ לְאָחִיו*,—literally, a man to his brother; correctly, one man to another.

“3. Gen. xxxvii. 19, ‘And they said one to another’—In the Hebrew, *אִישׁ אֶל אָחִיו*,—literally, a man to his brother; correctly, one man to another.

“4. Gen. xlii. 21, The same as the last.

“5. Gen. xlii. 28, The same as the last.

“6. Exod. x. 23, ‘And the Egyptians saw not—one another’—In the Hebrew, *אִישׁ אֶת אָחִיו*,—literally, a man, his brother; correctly, one man, another.

“7. Exod. xvi. 15, ‘And the children of Israel said one to another’—In the Hebrew, *אִישׁ אֶל אָחִיו*,—literally, a man to his brother; correctly, one man to another.

“8. Exod. xxv. 20, ‘And the faces of the cherubim shall look—one to another’—In the Hebrew, *אִישׁ אֶל אָחִיו*,—literally, a man to his brother; correctly, one face to another.

“9. Exod. xxxvi. 3, ‘The five curtains shall be coupled together—one to another’—In the Hebrew, *אִשָּׁה אֶל אָחֳתָהּ*,—literally, a woman to her sister; correctly, one curtain to another.

“10. Exod. xxxvi. 3, ‘And other five curtains shall be coupled—one to another’—In the Hebrew, *אִשָּׁה אֶל אָחֳתָהּ*,—literally, a woman to her sister; correctly, one curtain to another.

“11. Exod. xxxvi. 5, ‘That the loops may take hold—one of another’—In the Hebrew, *אִשָּׁה אֶל אָחֳתָהּ*,—literally, a woman of her sister; correctly, one loop of another.

“12. Exod. xxxvi. 6, ‘And couple the curtains together’—In the Hebrew, *אִשָּׁה אֶל אָחֳתָהּ*,—literally, a woman to her sister; correctly, one curtain to another.

* “We hope that the sight of a few Hebrew words, on this and several of the following pages, will not deter the mere English reader from perusing them.”

"13. Exod. xxvi. 17, 'Two tenons shall be set—one against another'—In the Hebrew, אִשָּׁה אֶל אָחִיהָ,—literally, *a woman against her sister*; correctly, *one tenon against another*.

"14. Exod. xxxvii. 9, 'The cherubim stood with their faces—one to another'—In the Hebrew, אִישׁ אֶל אָחִיו,—literally, *a man to his brother*; correctly, *one face to another*.

"15. Lev. vii. 10, 'One, as much as another'—In the Hebrew, אִישׁ כְּאִישׁ,—literally, *a man as his brother*; correctly, *one man as another*.

"16. Lev. xviii. 18, 'Neither shalt thou take a wife to her sister'—(in the margin, 'one wife to another,')—In the Hebrew, אִשָּׁה אֶל אָחִיהָ,—literally, *a woman to her sister*; correctly, *one wife to another*.

"17. Lev. xxv. 14, 'Ye shall not oppress—one another'—In the Hebrew, אִישׁ אֶת אָחִיו,—literally, *a man his brother*; correctly, *one man, another*.

"18. Lev. xxv. 46, 'Ye shall not rule—one over another'—In the Hebrew, אִישׁ בְּאָחִיו,—literally, *a man over his brother*; correctly, *one man over another*.

"19. Lev. xxvi. 37, 'And they shall fall—one upon another'—In the Hebrew, אִישׁ בְּאָחִיו,—literally, *a man upon his brother*; correctly, *one man upon another*.

"20. Num. xiv. 4, 'And the Israelites said—one to another'—the same as No. 7.

"21. Deut. xxv. 11, 'When men strive together—one with another'—In the Hebrew, אִישׁ וְאָחִיו,—literally, *a man with his brother*; correctly, *one man with another*.

"22. Neh. iv. 19, 'We are separated—one far from another'—In the Hebrew, אִישׁ מֵאָחִיו,—literally, *a man from his brother*; literally, *one man from another*.

"23. Job xli. 17, 'The scales of leviathan are joined—one to another'—In the Hebrew, אִישׁ בְּאָחִיו,—literally, *a man over his brother*; correctly, *one scale over another*.

"24. Jer. xiii. 14, 'And I will dash them—one against another'—In the Hebrew, אִישׁ אֶל אָחִיו,—literally, *a man against his brother*; correctly, *one man against another*.

"25. Jer. xxv. 26, 'And all the kings of the north—one with another'—In the Hebrew, אִישׁ אֶל אָחִיו,—literally, *a man with his brother*; correctly, *one king with another*.

"26. Jer. xxxiv. 14, 'Let ye go, every man his brother, that is an Hebrew'—In the Hebrew, אִישׁ אֶת אָחִיו,—literally, *a man, his brother*; correctly, *one man, another*.

"27 and 28. Ezek. i. 9 and 11, 'Their wings were joined—one to another'—In the Hebrew, אִשָּׁה אֶת אָחִיהָ,—literally, *a woman to her sister*; correctly *one wing to another*.

"29. Ezek. i. 23, 'And their wings were straight—one towards another'—In the Hebrew, אִשָּׁה אֶל אָחִיהָ,—literally, *a woman towards her sister*; correctly, *one wing towards another*.

"30. Ezek. iii. 13, 'The wings of the living creatures touched one another'—In the Hebrew, אִשָּׁה אֶל אָחִיהָ,—literally, *a woman, her sister*; correctly, *one wing, another*.

"31. Ezek. iv. 17, 'And be astonished—one with another'—In the Hebrew, אִישׁ אֶת אָחִיו,—literally, *a man with his brother*; correctly, *one man with another*.

" 32. Ezek. xxiv. 23, 'And mourn, *one towards another*'—In the Hebrew, *אִישׁ אֶל אָחִיו*,—literally, *a man towards his brother*; correctly, *one man towards another*.

" 33. Ezek. xxxiii. 30, 'And speak, *one to another*'—In the Hebrew, *אִישׁ אֶת אָחִיו*,—literally, *a man to his brother*; correctly, *one man to another*.

" 34. Ezek. xlvii. 14, 'And ye shall inherit it—*one as well as another*'—In the Hebrew, *אִישׁ כְּאָחִיו*,—literally, *a man as well as his brother*; correctly, *one man as well as another*.

" 35. Joel ii. 8, 'Neither shall *one thrust another*'—In the Hebrew, *אִישׁ אָחִיו*,—literally, *neither shall a man thrust his brother*; correctly, *neither shall one man thrust another*.

" This phrase in the masculine form—a man to his brother—occurs also, in connection with *רֵעוֹ*, literally, *a man his companion*, in four other instances: Exod. xxxii. 27; Isa. xix. 2; Jer. xxxi. 34, and xxxiv. 17. To show its meaning in this connection, also, I need cite but one of the passages, Exod. xxxii. 27, 'And Moses said to all the sons of Levi, go throughout the camp and slay every man his brother, and every man his companion, and every man his neighbour.'—As the tribes did not intermarry, and the sons of Levi were directed to slay none but persons belonging to the other eleven tribes, it is obvious that the phrase, *a man his brother*, when thus connected, has no allusion to a brother by consanguinity; but denotes, as elsewhere, *one man another*, or perhaps, from the repetition of the thought, *one man, several others*.

" The similar phrase, *אִישׁ רֵעוֹ*, *a man his companion*, in the masculine form, occurs in nineteen instances:—Gen. xi. 3 and 7; Exod. xviii. 7 and 16, and xxi. 18; Judges vi. 29; Ruth iii. 14; 1 Sam. x. 11, and xx. 41, *his*; 2 Kings iii. 23, and vii. 3, 6, 9; 2 Chron. xx. 23; Esth. ix. 19, 22; Isa. iii. 5; Jer. xxxvi. 16, and xlvi. 16; Mal. iii. 16. In the feminine form, *אִשָּׁה רֵעוּתָהּ*, *a woman her companion*, it occurs in four instances:—Isa. xxxiv. 15, 16; Jer. ix. 20; and Zech. xi. 9. In each of these instances its precise meaning is *one another*.

" The similar phrase, *אִישׁ עֲמִיתוֹ*, *a man his neighbour*, occurs in Lev. xix. 11, and Lev. xxv. 17, and in both signifies *one another*. That it has the exact meaning of *אִישׁ אָחִיו*, *a man his brother*, is proved from its use in the latter instance: in Lev. xxv. 14, 'Ye shall not oppress *one another*,' *אִישׁ אָחִיו*, *a man his brother*; and in Lev. xxv. 17, 'Ye shall not oppress *one another*,' *אִישׁ עֲמִיתוֹ*, *a man his neighbour*. These three phrases, therefore, have a common meaning.

" The thirty-five instances which I have recited are, with the exception of the four mentioned in the last paragraph but two, all the instances in which the phrase in question occurs in the Hebrew Scriptures. In twenty-five it is in the masculine form *אִישׁ אָחִיו*, *a man his brother*; and in ten, in the feminine form, *אִשָּׁה אָחִתָּהּ*, *a woman her sister*. Of these, twenty-one are in the Pentateuch, eight in Ezekiel, three in Jeremiah, one in Nehemiah, one in Job, and one in Joel. In thirty-two of these instances the phrase is actually rendered *one another*; in one, the 12th, it is rendered *together*, which is precisely equivalent to *one another*; and in one, the 26th, it is rendered, 'Let ye go every man his brother, that is an Hebrew.' This deviation from the common rendering, however, was adopted, not to express the relationship of *brother*, for the command is addressed to the Hebrews as a nation concerning their Hebrew slaves; but to avoid an awkwardness which would have attended the customary rendering in this instance—Let

ye go, every man another, that is an Hebrew. In thirty-four instances, then, out of the thirty-five, this phrase is actually rendered, and with absolute precision, by one to another—one man to another, one woman to another, one curtain to another, one wing to another, one face to another, one tenon to another, one loop to another, one scale to another, one king to another, one thing of any kind to another, wherever two things of a kind are brought together—and in no one instance is the word brother or sister thus used to express relationship by blood. In the thirty-fifth, also, the instance in question, it is rendered by our translators in the margin, 'one woman to another.'*

"The question then recurs, How are we to interpret this phrase, in this only remaining instance of the thirty-five, Lev. xviii. 18? That every candid mind—not committed either in feeling or in fact—must be ready on this evidence to decide that the phrase is a Hebrew idiom, and denotes one woman to another, I cannot doubt." Dwight then proceeds to state a parallel case before summing up.

Let it be also observed, in addition to what is so well stated by Mr Dwight, that of the thirty-five cases in which the phrase is used, no less than twenty-one of them are by Moses himself; and it were strange indeed that, in twenty instances he should have used it to denote "one to another," and in the one case, without any reason or warning, he should have used it literally. Our translators would not only have been warranted, but even called upon, to have given the idiomatic meaning in the text; but they honestly gave the twofold proper sense, the literal and the idiomatic, one in the text and one in the margin, without determining the meaning as annotators.

Before giving the authority of lexicographers, I may here adduce the translation of Junius and Tremellius, two of the most eminent scholars of their day, who translated directly from the Hebrew into Latin. They translate Lev. xviii. 18 as follows:—"Item mulierem unam ad alteram ne assumito, angustia affecturus hanc, retegendo turpitudinem illius ductæ super hanc in vita ipsius"—"Also one woman to another take not, to affect the one with sorrow, by uncovering the nakedness of the other married upon her in her life." I may also give, on this point, the note of David Martin on Lev. xviii. 18—"Tu ne prendras aussi avec sa sœur. —Heb. *Tu n' ameneras point une femme a sa sœur pour dire tu n' ameneras point une femme a l'autre que tu as deja, car le mot de sœur est mis ici, comme ailleurs celui de frere, dans une signification Hebraïque, pour signifier en general une autre personne, du meme rang, et comme (Ezek. i. 9) en lieu de ces mots, leurs ailes estoient jointes l'une a l'autre, il ya dans l'Hebreu, la femme a sa sœur. Le sens donc de cette defense estoit qu' un homme n' auroit pas deux femmes a la fois, mais quelques interpretes l'expliquent en cette maniere qu' un homme n' epouserait pas la sœur de sa femme sur tout du vivant de sa femme."*

† On Malachi ii. 15 he says, "Malachie don en remontant ainsi jusqu' a la premiere origine du mariage a egalement condamné la polygamie, et la divorce."‡ Buxtorf

* "If the English translators had in every instance rendered the Hebrew literally by 'a man to his brother,' or 'a woman to her sister,' the phrase would have long since become naturalised in English, and have denoted just what it denotes in Hebrew, 'one to another.' By thus rendering it in thirty-four instances and not in the thirty-fifth, they have led the mere English reader into sad mistakes and perplexities."

† La Sainte Bible expliquee par David Martin, Pasteur de l'Eglise Wallone d'Utrecht. Folio. Amsterdam, 1707.

‡ Ibid.

says, under the word *אִישׁ*,—"M., a man, a male, a husband; distributively, Quisque, unusquisque, quilibet, aliquis, quidam, quispiam. Every one,—each, whosoever, some one, a certain one, somebody. It is used even of inanimate things, as *אִישׁ לְאִישׁ* of a man to his brother,—that is, unus ad alterum, of one to another—Exod. xxv. 20. Then, on the feminine *אִשָּׁה* f. vira, woman, female, woman, wife; and distributively, every, each; *אִשָּׁה לְאִשָּׁה*, a woman to her sister,—that is, una ad alteram—Exod. xxvi. 3." Castell repeats from Buxtorf, quoting the same two texts (Exod. xxv. 20, and Exod. xxvi. 23) which we have quoted in full above.

I shall next give the meaning of the phrase, as furnished by Gesenius; and by Schleusner, on the word *ἀδελφή*, sister, in Greek; but before doing so, would remark, that while the literal translation of a word may be correct, it by no means follows that the literal verbal meaning is either the real or correct one. The former is ascertained by simply referring to the first meaning or root in a lexicon, but the latter is ascertained by a reference to the passages where it is used, and so determining the *usus loquendi*, the universal use of the word. In the present case, the meaning by that rule clearly is "*one to another*;" and common sense is not to be driven from a great fixed principle, either of morals or of criticism, by an appeal, real or pretended, to names and versions. A version may be honest and correct literally, while the real meaning may be different, and must be found by comparing Scripture with Scripture; and it is no argument against the version, on the one hand, if literally correct, that it differs from the meaning, nor against the meaning which you give, on the other, if agreeable to the universal meaning of the phrase in a great many other passages of Scripture, that it differs from the version. The one is not put against the other at all, unless where the version is a perverted paraphrase to suit a purpose or a theory. Gesenius says, under *ah* (brother), "(4) Any other man united to us only by the tie of the human race, i. q., *ro*, Lev. xix. 17. Hence when preceded by *ish*, one another." He then gives various instances; and then under the feminine *ishah el acothah*, a woman to her sister, he says, "The Hebrews also called sister (1) a female relative, kinswoman, Job xlii. 11; Gen. xxiv. 60, when the mother and brother say to Rebecca, 'Thou art our sister'; (2) one of the same tribe or people, Num. xxv. 18; (3) an ally, a confederate city or state, Ezek. xvi. 46, xxiii. 31; (4) after *ishah* (the case of Lev. xviii. 18), one another; used also of inanimate things of the feminine gender, Exod. xxvi. 3, 'Five curtains shall be joined' (a woman to her sister, literally) 'one to another,' verses 5, 6, 17." Schleusner also says, on the word *ἀδελφή* (sister), that the "Hebrews are wont to call sister anything closely joined together or dear," and gives instances. Under *ἀδελφος* (brother), he says, "It has a most extensive application as in Hebrew, and even to everything which is *in any way* joined with another." Such is the passage in the edition I quote from, Glasgow, 1824. But as quoted in the speech of the eminent lawyer, Mr Badeley, on the law of marriage, before the English judges, it is as follows:—"Lev. xviii. 18, *γυναίκα ἐπ' ἀδελφῇ, αὐτῆς οὐ λείψῃ*, a wife to her sister, that is, to another, thou shalt not take. Compare Exod. iii. 18, where the Hebrew is a sister to her sister, the Seventy render one to another, *altera ad alteram*."

These are the renderings, not of controversialists or of commentators, but of lexicographers, having no system to support, but giving the meaning of words on their own responsibility as scholars, and so are not to be put aside by opinions got up to serve a purpose.

The only thing like an appearance of an answer to this rendering, in those of the instances adduced, is one which leaves thirty-four of them unquestioned, while it attempts to show that it is inapplicable to the one in question, and to it alone. It is in the following terms :—"The phrase, 'a woman to her sister,' does indeed occur no less than eight times elsewhere in the Hebrew Bible in the general meaning 'one to another,' but of only inanimate objects in the feminine gender, viz., of the curtains, loops, and tenons of the tabernacle, Exod. xxvi. 3, *bis* 5, 6, 17; and of the wings of the living creatures, Ezek. i. 9, 23, iii. 13. The like phrase in the masculine, 'a man to his brother,' occurs in all about twenty times, mostly of men, but also in a few instances of inanimate objects and insects, as Exod. xxv. 20; Joel ii. 8. But it is to be remarked that in every such instance this phrase, whether masculine or feminine, has a reciprocal distributive power—that is, a number of persons or things are said to be so and so to one another. A plural nominative invariably precedes, connected with a plural verb; and then the action or relation of this verb is by this phrase marked as reciprocal among the individuals comprised in the plural nominative." After giving some examples, the writer adds,—“This, then, is the idiom; and to this idiom the passage in Lev. xviii. has no relation. There is nothing distributive nor reciprocal implied in it. The phrase here refers only to the subject of the verb, upon which object no trace of mutual or reciprocal action passes over.”*

Now, it will be observed that Castell and Buxtorf say “distributivé,” distributively, and by the words they add, “every, each, whosoever,” &c., in proof of its being used distributively, every one would understand that it made the case more universal, and so more comprehensive; and that the prohibition in Lev. xviii. 18, whatever it may mean, was by that meaning only rendered more exclusive, prohibiting every woman to the man in addition to another woman. We were very much at a loss for a time to understand the bearing of Robinson and Bush’s argument, and do not yet comprehend how the word reciprocal alters the case. Because, in the case under consideration, it is the negative being put upon any number of women being put in this joint reciprocal relation to one another, as wives of the same man. The attempt to make the idiomatic expression applicable in the case of plurals only will not carry much weight in any man’s judgment.

On showing it to a Christian Jew, known to the public as one of the best Biblical critics of the day, he was, like ourselves, puzzled, as every other man of ordinary capacity will be, to discover where its force lies. It is most justly liable to the censure of Mr Montgomery, who says, “This is, however, an extreme refinement of criticism, and very like an ingenious device for getting quit of a difficulty, and supporting a favourite opinion. It is not pretended that any other instance occurs of the use of the same words in anything like the same way in which it is here attempted to persuade us that they are used in Lev. xviii. 18. The case would stand utterly alone. The difference is not very great betwixt the manner in which the phrase is said, by those against whom this author contends, to be used in Lev. xviii. 18, and the manner in which he allows that it is commonly used. The very nature of the phrase is such that its use must commonly lie with a reciprocal distributive power . . . But it is still more important to note that the restriction thus attempted to be put upon the use of the Hebrew idiom in question cannot be pretended with regard to the per-

* See opinion of Professor Bush, discussed below.

fectly analogous idiom *איש רעהו*, which is always used with a reciprocal distributive power, and in connection with a plural nominative and a plural verb, but which occurs in Exod. xviii. 16 in a way which better corresponds with the text now under examination. 'I judge between one and another,' *ושפטי בין איש ובין רעהו*,—and in Ruth iii. 14, 'She rose up before one could know another,' *ברום יכיר אה רעהו* (see also Esth. i. 19.)^{*} It appears from Gesenius that the restriction attempted to be put upon the use of the phrase in Lev. xviii. 18, as idiomatic, is contrary to the analogy of the Rabbinical Hebrew and of the Syriac.

After this review one is somewhat at a loss to understand the contemptuous style in which some of the writers who are quoted by the Libertarians, and, among others, Dr Eadie, indulge against those who presume to follow in the wake of Junius and Tremellius, Buxtorff, Castell, Poole (the author of the *Synopsis Criticorum*), Hammond, Gesenius, the translators of the English Bible, the Assembly Annotators, and many others. It is true, they were not born yesterday. But when one looks to the works of the men who have held our views on the question of the marriage of a man with the sister of a deceased wife, and casts an eye, for instance, over nine folio volumes, in double column, of Calvin's most elegant classical Latinity and unequalled moral theology—on Castell's two folio volumes of Hebrew, Chaldaic, Syriac, Samaritan, Ethiopian, Arabic learning—on Poole's five folio volumes, in double-column, containing the substance of all previous critics—on five folio volumes of the massive theology of Manton, &c., and remembers that this is but the most partial specimen of the learning of the men who held our views, whose works would fill a larger library than any of the men who sneer at them ever possessed, he cannot but feel that he should hesitate to call any man a "mere tyro" who should be guided by them, and would require some more evidence than Dr Eadie has produced, even in Robinson and Bush, to justify the assertion that "all the great names in Hebrew philology and commentary" are on his side. We wish it to be borne in mind that in this discussion we have "called no man master on earth." We have rested nothing on mere names; but we have rested much on the *reasons* they adduce. We leave to our adversaries the warfare in which they so largely occupy themselves in the array of names. With a man's mere name you can no more grapple than with his ghost. It is like Ossian's heroes fighting with the mists on the hills, the ghosts of the men of other years, or like Paul's instance of those who beat the air.

I had written thus far when I felt it to be right to give Dr Eadie the benefit of the impression that remained on my mind, that he had in some way modified the strong and decided opinions he had formerly given on this subject in his two letters. On turning to my file of the "Guardian" newspaper, I found the report, hitherto uncontradicted, of what he had said in his Synod on the case of a woman who had married the brother of her deceased husband. But on the following day, the elder who had brought up the case of this woman by appeal from one of the kirk-sessions of the body, and had lost the appeal, proposed an overture to the effect of altering that part of the Westminster Confession of Faith, which is the Confession of the Synod's faith, and prohibits the marriage of a man with the sister of a deceased wife, and of a woman with the brother of a deceased husband. This, by the way, shows that this elder, and those who supported him, held the two things to be, if not identical,

^{*} "Marriage with a Deceased Wife's Sister or Niece." Johnstone and Hunter, 1850.

at least bound up in the same general principle. On this overture Dr Eadie is reported to have spoken as follows:—"Dr Eadie disclaimed all connection with this overture; and he thought that its connection with a former case should have operated on the mind of the person who brought it forward as a disqualification in this instance. Reference had been made to him, and he begged to state that he had distinctly stated that he did not think it wise or expedient to alter the law in regard to Scotland; and his mind remained of that opinion still. What was ascribed to him on the subject was only a species of exegetical, antiquarian investigation of the question. As to what the law of Christ ought to say, or what it had said, he had never said a word. He left that as a matter which was still unexplained and unexplored by him. He merely referred to that one part of the Mosaic code, to which he had turned his attention. He was very much of Dr Beattie's opinion. There was a diversity of opinion on the subject. Some had their minds made up one way and some another, and some were in doubt; and therefore he agreed in the opinion that, unless there be something pressing it on the consideration of the church,—something demanding immediate and urgent attention from them—not the mere abstract question,—it would not be wise for them, in the meantime, to enter upon an investigation of it."

It is but fair to give Dr Eadie the benefit of what seems the indication of a less confident tone on this subject than he at first assumed. Nay, more, reading this extract from his speech, the feeling arose that I ought to cancel all the preceding remarks on his letters. But on more mature reflection I think it necessary to retain them, as justly warranted and required by what Dr Eadie had previously written, and by the boastful use that has been made of it by the other party, and as due to the cause of truth. And I have now to remark, that if the parties who have not a tithe of the learning of Dr Eadie, would not give an opinion on a subject of this nature till they had "explored" it, ninety-nine out of every hundred of these ministers and laymen who have put their names to petitions and advertisements for the alteration of the law of marriage, even contrary to the creeds and laws of the churches to which they belong, would not have been heard of, and the list of names would be of very small dimensions indeed. The name of one man, who has investigated the subject for himself, is worth ten thousand of them. It was to have been expected that after Dr Eadie had made the above declaration, his name would have been withdrawn from the list of "Facts and Opinions" of the London Association. Such, however, is not the case.

The managers, or acting parties of that Association, in their zeal, did me the honour of sending me a thick fasciculus of their smaller and more formidable arms and munitions of war, in the shape of a very large collection of speeches, pamphlets, and fly-leaves, which the funds of the wealthy parties interested in their operations enable them to disperse in great numbers. Their best authorities are to be found in this collection. One naturally expects to see there a portion of the overwhelming Hebrew and oriental scholarship, which makes the followers of the great men of other days mere "blundering tyros." With every disposition to discover the whole strength of the enemy's positions, and either to take them or surrender our own, I have found nothing additional to the lights of Robinson and Bush on Lev. xviii. 18. The whole scholarship of the Association is found in the opinions of Dr M'Caul and a certain Rev. C. J. Goodhart, A.M., minister of Park

Chapel, Chelsea. The latter gives his opinion in a letter of about six octavo pages, and its chief argument on the disputed text is made to rest on the opinions of the Jews, who are no more Hebrews, having by nature a knowledge of their own language, than any Highland Celt or Bohemian gipsy is an Asiatic or Egyptian. We have the whole strength, then, in Dr M'Caul. Mr Joseph Stansbury, "Honorary Secretary of the Marriage Law Reform Association," had addressed to Dr M'Caul the following letter, of date Dec. 31, 1850—evidently as to one to whom he was no stranger:—

"REVEREND AND DEAR SIR,—In common with many who are interested in forming a sound opinion on the lawfulness of marriage with a deceased wife's sister, I request that you will do me the favour to express your judgment on the following points:—

"1. Do the words in Lev. xviii. 18, 'A wife to her sister,' express the true sense of the Hebrew text?

"2. Is there any ambiguity, any room for reasonable doubt, whether the word 'sister' is taken figuratively, and whether the meaning may be 'one wife to another'?

"3. How did the ancient Jews interpret the passage, and what was their practice?

"4. What is the sense adopted by modern Jews, and what is their practice?

"We ask the benefit of your acquaintance with the Hebrew language and literature, to enable us to decide whether, as a matter of fact, the marriage is forbidden, or implicitly allowed, in the Mosaic law.—I have the honour to be," &c.

This letter proceeds from one who, without all doubt, had already decided, and puts questions to one whose opinion he obviously knew. Few men would otherwise thus ask any man to give an opinion on points requiring for a satisfactory answer no small portion of pains and study.

In reply to the first of these queries, Dr M'Caul simply says his opinion is, that the authorised version renders Lev. xviii. 18 correctly. In reply to the second, he gives in substance Robinson's opinion as follows:—"I think there is no room for reasonable doubt here. In other places the words signify 'one to another' (not 'one wife to another'), where two things before spoken of are specified. Here no such subjects precede to which the version 'one to another' can apply. On the contrary, verse 18 is an independent command, and the order of the Hebrew words is important, 'A wife (or a woman) to her sister thou shalt not take.'" I confess to my entire incapacity to discover wherein lies the force of this statement as against us. The two things before spoken of are man and woman in the relations of marriage.

Dr M'Caul answers to "3 and 4," "*So far as I know*, the Jews, ancient and modern, have had but one interpretation, exhibited in their practice of marrying a deceased wife's sister."

It would have been of some use if Dr M'Caul had told us what he does know, and had given us some proofs from ancient Jewish writings. The "interpretation" of *their* practice, though the fact were as he states it, would carry no more weight with us than the fact that their interpretation, as exhibited in their practice, is to pronounce Jesus Christ our Lord accursed. Is this, the reader will ask, the amount of the Oriental scholarship? It

will be observed, that Dr M'Caul avoids the troublesome point in the conclusion of the letter altogether.

It appears that Mr Stansbury found Dr M'Caul useful in helping him to discharge the duties of his secretariat, and he addressed to him another letter on the subject of "one wife to another," to which Dr M'Caul replies, and repeats the same argument, with a few texts quoted. He then shows us, in three several forms, the way in which the Hebrews "*might*" express the word "another," whether to a wife or any thing else. No one that I know ever asserted they could not do it. All that we say is, that in thirty-five cases in all, twenty-one of them being in the Pentateuch, they have expressed the phrase "one to another" in the very words of the first part of Lev. xviii. 18.

This second letter, however, of Dr M'Caul lets out his *ratio decidendi*—the ground of his judgment—which is no other than that of the Jews who have held the lawfulness of polygamy. He says—

"3. The assertion that Leviticus xviii. 18 'simply forbids polygamy,' is proved to be unfounded by other plain passages of Scripture. Though the law of Moses plainly sets forth that polygamy is opposed to the original institution of marriage, it as plainly recognises and permits the marriage of more wives than one, and regulates the duties of the husband in such cases (Exod. xxi. 7-11; Deut. xxi. 15-17.) David's adultery is denounced by the prophet, but not his polygamy (2 Sam. xii. 8.) I am of opinion, THEREFORE, that the authorised version of Lev. xviii. 18 agrees best with the usage of the Hebrew language, and the fact of the Mosaic permission of polygamy; in fact, that it gives the true meaning of the Hebrew word."

Here is the whole Hebrew and Oriental scholarship which we have yet seen produced against our view of Lev. xviii. 18.

On this last head of Dr M'Caul's letter, I remark,—1. That any "tyro" come to the use of reason, who can read his Bible, understand the ordinary principles of God's Word, and can compare one thing with another, can judge of the lawfulness of polygamy as well as Dr M'Caul. To this point we shall afterwards direct a little attention, meantime declaring that we altogether deny the justice of his opinion as to the lawfulness of polygamy, and so cannot receive the criticism founded upon it.

2. That the "*therefore*" of Dr M'Caul is proof that this opinion, which we hold, and hope to prove, to be a false opinion, is that which has led him to his conclusion on the rendering of Lev. xviii. 18.

3. That no one can fail to see that the last clause of his letter indicates that otherwise he would have some doubt of his critical argument—"therefore;" "in fact, that it (the authorised version) gives the true meaning." The reader will remember that the authorised version, in other words, its authors, gave "one woman to another" as "*idoneus sensus*," a fit sense; and no one is entitled to plead their authority against us, because, if against us, it would be against themselves.

4. But further, I may remark on the strange havoc made by Dr M'Caul on the argument of his friends, from the conduct of Abraham and others in patriarchal times, that polygamy was allowed. He not only admits the general truth, "that polygamy is opposed to the original institution of marriage," but that "the law of Moses plainly sets forth that polygamy is opposed to the original institution of marriage." What does this mean but that the conduct of Abraham was a violation of the original institution of marriage, and that the law of Moses plainly sets this forth? The original

law of God, then, in the first place, condemns the conduct of Abraham and of all ante-Mosaic polygamists. And the "law of Moses, which was four hundred years after, could not annul" the act of condemnation passed upon that polygamy two thousand years before it was committed by Abraham, and the law not repealed, even in pretence, to any human being for many hundred years after it was committed. With all our desire to show respect to men of some name, the inconsistency of error is so great as to prevent the possibility of reverencing their mere opinions.

We had proceeded thus far in our discussion before we obtained, for the first time, a copy of the Notes on Leviticus by "George Bush, Professor of Heb. and Orient. Lit., N. Y. City University—New York, 1852," and therefore the most recent edition. We have perused his Notes on Lev. xviii. with much interest. We admire their candour and fairness, and confess that, considering the reticence of Dr Eadie as to his general views, when he quoted him, along with Calvin, as in favour of the reading of Lev. xviii. 18 in the text, and against that of the margin of our Bibles, we certainly did not think to find his views so decided, or, at least, so clear against the unlawfulness of marriage with the sister of a deceased wife, as they are.

Let us, however, attend to his statement of the difficulty he has in receiving the marginal reading. It will be remembered that this marginal reading is not the invention or suggestion of any one critic or commentator, but is received to the extent we have already shown by a multitude of the ablest men that the world has ever seen; and the question now is, has Professor Bush demonstrated that they are all mistaken? He states the case almost in the words of Dwight, giving all his instances, and then proceeds as follows:—

"These are all the instances, except the present, where the phrase *אשה אחתה*, *a wife to her sister*, occurs, and it will be observed that in every one, except the case before us, the rendering in our translation is *one to another, together*, or some phraseology wholly equivalent. In no other instance do we meet with the literal version, *a wife or woman to her sister*. So, in the twenty-five instances of the masculine form, the rendering of our translators is uniform, *one to another*, whether spoken of persons or things. In no case do we find any reference to *relationship by blood*. The question therefore arises, whether the literal version in this place, involving, as it does, a departure from common usage, is warranted? It is admitted that the thirty-four indisputable cases in which this mode of speech occurs in an *idiomatic* sense go very far to establish this as in all cases the genuine signification of the phrase. It would seem, at first view, that such an overwhelming majority of instances would be completely decisive of the point in dispute; and yet we cannot but concede that there is in this one case very great reason to doubt. For it will be observed, that in every other instance, not only are the things which are to be added to each other *inanimate* objects of the feminine gender, but the *subject of discourse* is first mentioned, and by *that* is the import of the phrase governed. If we take the expression here according to its import in every other case in which it occurs, we shall be obliged to render the verse, 'Thou shalt not take one to another to vex,' &c. One what? it might properly be asked. If it be said, one woman, this is immediately giving a new latitude to the phrase beyond what it *idiomatically* implies; and yet its force as an *idiom* is all that is relied upon in proof of its referring not to a *sister*, but to any

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other woman. The principles, then, of a fair exegesis would seem to compel us, if we understand *woman* or *wife* by אִשָּׁה, *ishah*, to understand *sister* by אחות, *a'hothah*. Again, it appears that in every other case the phrase has a *reciprocal import*; that is, a number of things are said to be so and so *one to another*. But here we perceive nothing of this. There is no trace of mutual, reciprocal action, or relation. It is simply taking one object in addition to another, and leaving the whole phraseology utterly imperfect as compared with the Hebrew usage. We cannot but think, therefore, that 'a wife to her sister' is the appropriate rendering in this place."

He endeavours to find a reason for the change in the form of speech in the 18th verse, in the fact that a reason for the command is assigned, whereas in the preceding precepts it is a simple act of authority. There does not seem much force in this, though it is assigned by another writer who takes this view. But on his criticism I venture the following remarks. He says, of the instances of idiomatic use of the phrase "one to another," "In no case do we find any reference to relationship by blood." The meaning of this is not, at first sight, very obvious. On attentively considering it, however, it is a confirmation of the argument of the phrase that is used idiomatically in Lev. xviii. 18; because it is not, on the view supposed by us, "a relationship by blood" at all, and therefore strengthens the marginal reading, and, in this respect, corresponds with its use in all other cases. While admitting the very great strength of the position, that thirty-four out of thirty-five instances *are without question idiomatic*, he yet doubts, in the one case before us, if it be idiomatic, because he says, "It will be observed that, in every other instance, not only are the things which are to be added to each other *inanimate* objects of the feminine gender, but the subject of discourse is first mentioned, and by that is the import of the phrase governed." Granting the facts to be as here stated, that the things which are to be added are in these instances, where it is used in the feminine form, "*inanimate objects*," is there any thing in the nature of the idiom to forbid its being, in this instance, applied to objects having life? The idiom is applied many times in the masculine form to things having life. What is there in the nature of the thing to forbid it being used, as in the case before us, to things having life in the feminine form? I can see no reason for its being so forbidden. In the case in question, the subjects of discourse are plain enough,—viz., women. The answer to his question is not very difficult. The question should be interposed thus:—"Thou shalt not take,"—take, or marry what? The answer is, objects of the same kind,—that is, women, "one woman to another." Nothing else can be the question, and nothing else can be the answer in the case in hand. As to the last difficulty in the mind of Professor Bush, few will be able to apprehend it as such. He says,—"It appears that, in every other case, the phrase has a reciprocal import; that is, a number of things are said to be so *one to another*. But here we perceive nothing of this. There is no trace of mutual, reciprocal action, or relation." In many of the cases we have adduced, such as Gen. xiii. 11, xxvi. 31, the only number of persons or things consists of two,—Abraham and Lot, Abimelech and Isaac, and yet the idiom is employed. In the case before us, there may be any number of women distributively, and forbidden to stand to each other in the relations of wives to a common husband. If I comprehend Professor Bush, I see no difficulty in this case at all. Neither he nor any other is at liberty

to assume that one wife is first married, and that then the question arises in regard to the other. In such a state of the question, there might be some appearance of plausibility in saying that the idiom was destroyed. But I demur to this state of the question. The question is raised at a previous stage, and must be so, for any effect fitted to serve the end of a law, and to save the rights of all parties, and to prevent the evils of "one wife to another,"—that is, before the man is married at all; and the question is, whether he may marry more wives than one, be it two, or three, or more? If this be not the question, if it must be confined to the case of one married first, and then another after, then let him marry them all at once, and there will be no prohibition. The writer has married to several men several women at one and the same time. He has known a brother marry seventeen couples at one and the same instant. Why not as many women to one man? It is presumed the Grand Turk serves himself heir to the whole seraglio at once, and, though I am not versant in such mysteries, it is presumed there is no actual form of marriage to more than one wife; and she is THE wife, THE Sultana. This accounts for the change of expression to "Thou shalt not take, or take not," and for the different reason assigned for the vexing, viz., that it is not here a question of incest but of polygamy. We cannot say we have *removed* this difficulty of Professor Bush, not being able to apprehend it as a difficulty at all; but if others feel it, it is, at least, satisfactory to know that his own difficulty in receiving the *idiomatic* meaning in this verse does not in the least lead him to favour the conclusion drawn by others from the verse—viz., that it implies the permission to marry the sister when the first wife dies. The writer is much gratified to find that, in his own independent consideration of the verse, he had come to the very same conclusion on the bearing of that latter part of it, as that come to by Professor Bush, who adds—

"But although we feel constrained to give up the argument drawn from the Hebrew *idiom*, and usually applied in this connection to convert the passage before us into a direct prohibition of polygamy, and therefore as having nothing to do with the question of the disputed marriage; and though we cannot in fairness avoid admitting that the connection here forbidden is *marriage with a wife's sister*; yet we do not for that reason feel laid under any necessity of admitting the inference which is so commonly drawn from the final clause of the verse. 'Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness, besides the other *in her lifetime*.' From this, it is said, the implication is palpable, that the obligation of the law is limited by the lifetime of the first wife, and that upon her decease there is no bar to the husband's marrying her sister. This we must regard as a gross *non sequitur*. The expression 'in her lifetime,' is too slight to be allowed to vacate the force of all the considerations which we have before adduced in proof of the *implied prohibitions* contained in the preceding verses. If the inference which we have shown to be deducible from ver. 16 be intrinsically sound, it cannot be set aside by any expression in the verse before us; for there is nothing here more *certain* than we have found above. At the very utmost it is merely setting one inference against another. The genuine import of the phrase 'in her lifetime,' in this connection undoubtedly is, *as long as she lives*, without the least implication of any thing that is to follow, or that may follow. You are not to take a step which will be sure to imbitter the lot of the first wife during the whole period of her life. The consequence of your

rashness, or indiscretion, or malevolence, will be that she will know peace no more as long as she lives."

Again, he says—

"But we proceed with the exposition. *To vex her.* Heb. לִצְרֹר, *itzror*, to vex; i. e., to produce vexation in the family, to the first wife mainly, no doubt, but not to her alone, as the appropriate word for 'her' is wanting in the original. Still it is properly enough inserted in our translation. The original is happily expressive of the mutual broils and bickerings which are so prone to arise under a system of polygamy, and of which we have an example in the case of Hannah and Peninnah, in the family of Elkanah. 1 Sam. i. 6, 7, 'And her *adversary* (צָרָתָהּ, *tsārāthāh*, her vexer) also provoked her sore, for to make her fret, because the Lord had shut up her womb. And as she did so year by year, when she went up to the house of the Lord, so she provoked her; therefore she wept and did not eat.' If this was a state of things to be deprecated between women who were not related before marriage, how much more between sisters!

"*To uncover her nakedness besides the other.* Heb. לְגַלּוֹת עֶרְוַתָּהּ דְּלֵהָ, *legalloth erewthāh dlēhā*, to uncover her nakedness upon her. The phraseology is somewhat ambiguous, as it does not at once appear to which of the sisters the suffix 'her' infers. Is it the one who is vexed whose nakedness is uncovered, or the other? It is to be observed that, in the original, there is no word strictly answering to 'the other.' That which our version renders 'besides the other,' is in the Heb. עָלֶיהָ, *upon or by her*, and the feminine suffix הָ *hā*, *her*, undoubtedly refers to the same person as the הָ *hā*, *her*, in עֶרְוַתָּהּ, *erewthāh*, nakedness. The true reading, then, is—"To uncover her (the first wife's) nakedness upon her (the first wife) in her lifetime." This appears to be the necessary grammatical construction; but how does this vex the first wife, to uncover her own nakedness upon or by herself? The solution of the difficulty, we believe, is to be found in the fact clearly intimated in ver. 7, that the nakedness of the husband is the nakedness of the wife, and that what is here termed the 'uncovering of her nakedness' is really the uncovering of the nakedness of the husband, and exposing it to the second wife, which is of course done *by, upon, beside* the first, and therefore to her grievance and vexation.

"*In her life-time.* Heb. בְּחַיֶּיהָ, *behayēhā*, in her life. That is, as intimated above, during the period of her life, as long as she lives."

And he goes on still farther to prove that the word lifetime refers to vexing as long as she lives. For an excellent summary of the whole argument in favour of the view of those who hold the marriages in question unlawful, we cannot do better than refer them to Bush. He sums up as follows:—"To our mind the evidence decidedly preponderates in favour of the opinion that the laws contained in the present chapter (xviii. ver. 6-17) have respect not merely to lewdness in general, but to incest,—that they are in their nature moral, and not ceremonial, and therefore universally and perpetually binding; that the implied prohibitions are equally authoritative with the express; and consequently that marriage with a deceased wife's sister is clearly contrary to the revealed will of God."

In connection with the discussion on this text—(Lev. xviii. 18)—I may here quote the following admirable passage which I translate from Broüwer, the celebrated and very learned Dutch jurisconsult. In his 15th chapter, "De nuptiis ob affinitatem prohibitis summaria," he states the heading of his 5th section thus:—"The widow of my brother I cannot marry." In

illustrating this section he states the view of Calvin, that "brother, in Deut. xxv. 5, 6, 7 is not the brother-german, but blood relations of a remoter degree." So strong is the view he takes of the prohibitions—Lev. xviii. 16, and xx. 21—that he cannot think Deut. xxv. 5-7 even an exception. Brouwer does not agree with Calvin in this. He discusses the whole case as an able lawyer, fearing God and his Word, would do. He shows that there were many cases in which the brother was not held bound to marry the widow of his brother, referring to Selden and Buxtorf for their enumeration, and then sums up thus:—"What then? Was marriage with a widow of a deceased brother lawful? By no means. For the Lord expressly forbade it, under pain of extermination; and this special exception to the contrary confirms the rule. Thus, among the commands prohibitory of certain marriages, he hath placed the general law of not marrying a brother's widow; that other special law he hath put in another place, and as a special exception from the general rule, that he might indicate that the first precept bound all; that what was singular it pleased him to put in another. Therefore, no man is to imitate it without the express will of God; that which, without that will, is found forbidden to every human being. What then? Shall it be said that that is contrary to natural reason which sometimes hath pleased God. Be it so (ita); but as we have said, what human reasoning concludes to be abominable and indecent, that, by the will of God, may sometimes become decent and just. God, the Author and Lord of nature, whose will is superior to all human reasoning, hath fixed the law to us, *not to HIMSELF*. What he orders is just. But we must not follow what, in a certain case, his secret counsel hath sometimes approved, as often as the general law enacted by him is to the contrary; but rather his command, which is above all laws, and the act, at whose deep secret reasons our curiosity cannot perfectly reach."

His 6th head is thus stated:—"A sister-in-law, that is, the sister of my deceased wife, I cannot marry." This latter, his 6th head, he illustrates thus:—"As it is not allowed to marry the brother's wife, so neither is it allowed to marry the sister of a deceased wife, whom we call the *pro-soror*, or sister-in-law. The general rule is, that, by divine right, the marriages of all related by affinity are prohibited, if the marriages of those blood relations whom they represent are forbidden. The reason of this law is," (he here refers to Carpsovius, lib. 2, tit. 6, defin. 88, *et seq.* Jurispr. Consist.), "because a wife uniting (*coalescens*) into one flesh is accounted of the flesh of him, who is a partaker of one flesh with the husband. Nor is it any objection to this doctrine, both that God nowhere expressly forbids connection with a sister-in-law, or that the greater abomination (*foeditas*) is allowed—the custom of the levirate with the brother's widow—because (*quia*) (*quam*? which) one woman contracts from two blood relations, than when the sister-in-law is joined to one husband, and two blood relations cleave to one man. This latter argument, as may be also urged in favour of the marriage of a maternal or paternal uncle with the widow of a son by the brother or sister—concerning which hereafter—I shall here pass by in silence, and address myself entirely to the former. It is true that God has expressly prohibited the marriage of a brother with a brother's wife, but not of a sister-in-law with the widower of her sister. But, by parity of reason, he hath left place for arguing from what is expressed to what is not expressed; so that, since the marriages of the brother-in-law and the brother's widow are interdicted, also the marriages of these are, for the

same reason, said to be forbidden by the sense of the divine law. Truly, as it has little modesty, so the following argument has no reason, which is wont to be adduced to the contrary, viz.—that ‘God says, the nakedness of the wife is that of the husband, but nowhere that the nakedness (pudenda) of the husband is that of the wife; hence, marrying the brother’s widow uncovers the nakedness of the brother, but he who has connection with a sister-in-law uncovers no one’s nakedness: for the nakedness of a sister-in-law is not the nakedness of our wife.’ But, that I may briefly answer to *this obscene argument*—(used, however, by many of our moderns)—“the nakedness of the husband is the nakedness of the wife, who has coalesced with the husband into one human being (hominem): For a wife has the same power over the body of the man that the man has over the body of the woman. That although God only speaks of the nakedness of the wife, the same thing must be said, from the nature of marriage, concerning the nakedness of the husband, viz.—that it is contrary to natural modesty in the husband of a sister, or sister’s widower, to uncover the nakedness of her sister. Otherwise, this same argument would make marriage with a daughter-in-law lawful; because the nakedness of a daughter-in-law is not the nakedness of our wife, which, however, God expressly forbids—Lev. xviii. 17. Therefore, the words of God—‘because it is the nakedness of thy brother’—are to be received as meaning, because she is the wife of thy brother. They do not rightly understand the intention (mentem) of the law, who affirm that God only prohibits the marriage of a sister with the husband of a sister during the lifetime of the sister, that the married sister be not vexed: for that law has no respect to this matter; for God forbids polygamy, when in Lev. xviii. 18 he prohibits the taking of one sister to another: for all Israelites called themselves sisters and brothers, acknowledging the same father, Abraham.—Calvin, ad. 7. Præcept. Decal. in loc. Lev. xviii. 16. Wherefore, it seems to me, the version of Junius and Tremellius is to be approved,—‘one woman to another take not, to vex her,’ (hanc, this), by uncovering the nakedness of her (illius) that married upon this (hanc) in her life (in vita ipsius), as is gathered from Malachi rebuking polygamists—cap. ii. 14, 15.” He then goes on to show that many heathen nations, as well as the Christians, condemned such marriages; and concludes this section thus:—“The opinion of some Rabbins may here be noted in passing,—that in honour of Jacob, the husband of Leah and Rachel, God declared no special punishment against this custom, as, indeed in other incestuous marriages.—Buxtorf, pat. 1. § 23. De Sponsal. et Divor. Ebr. But the Papists have followed the divine law, and the law of Justinian.—C. 8, caus. 35, 9, 2, 3. Our laws, act. 10; Political Const. of Holland, act. 19; Pol. Const. of Zealand; The Transylvani, act. 20; Ord. Van Matrim. Sæck.; Van Overysseel. act. 61; Eght. Regl. Vande Stat. General Synod held at Middleburg, ann. 1581, act. 85 et 87; Synod Holl. Amstr. held Enchus, ann. 1624, act. 54; held Horn. 1629, act. 5811; and, Bechstad being witness, ALL GERMANY.” *

After all that has been adduced on this text is considered by the reader, he will possibly be disposed to think that the following censure is somewhat in danger of recoiling on its author:—“I ask for the name of any Hebrew scholar, whose name is of any authority, that ever held Dr

* Henrici Brouwer, J. C., De Jure Connubiorum apud Batavos recepto, Libri Duo, &c. Amstelodami, 1665.

Symington's view—(the view of the marginal reading). There never was one. A Hebrew tyro could not commit the blunder.*

The discussion of the question of polygamy will still further test the character of this censure. Meantime, I recommend to those who have the fancy that the men of these times, when our translation of the Bible was made, were tyros in scholarship as compared with some few men in the present day, the passage given in the note below,† and a perusal of the article in the "Princeton Review," from which the passage below is taken. I cannot help adding a remarkable passage from Whitaker—a passage as applicable to the writers of the present day as it was when first penned:—

"The highest value has always been attached to our translation of the Bible. Sciolists, it is true, have often attempted to raise their own reputation on the ruin of that of others; and the authors of the English Bible have frequently been calumniated by charlatans of every description: but it may be safely asserted, without fear of contradiction, that the nation at large has always paid our translators the tribute of veneration and gratitude which they so justly merit. Their reputation for learning and piety has not descended with them to the grave, though they are alike heedless to the voice of calumny, and deaf to the praise which admiring posterity awards to the great and the good. Let us not, therefore, too hastily conclude that they have fallen on evil days and evil tongues, because it has

* Dr Eadie's Letter to the Editor of the *Glasgow Chronicle*.

† From an able and learned article in the Princeton Essays on the English Bible, I extract the following passage:—

"The age in which our translation was made was pre-eminently a learned age. In science and the arts, that in which we live is, we admit, greatly beyond its predecessors. But so far as learning and scholarship are concerned, we do affirm there never has been an age equal to it. There never was an age distinguished by so many illustrious scholars in every department of classical and biblical learning. Where do we go for profound original information on Latin, Greek, or Oriental Literature? Where are the great storehouses from which our modern bookmakers draw their Lexicons, their Grammars, their Commentaries? Was Melancthon 'a mere Latin scholar'? Did Roger Ascham know nothing of Greek? Were Erpenius, and Golius, and Pococke, unacquainted with Arabic? Was Hebrew a dead letter to such men as Buxtorf, Morinus, Pagninus, Arias Montanus, Tremellius, Junius, Beza, Castell, Walton, and Pool? Where is the public library, three-fourths of whose volumes on sacred philology are not dated in the 16th and 17th centuries? We find in this period, among the magnates of oriental and classical learning, besides those already mentioned, such names as Budæus, Erasmus, Turnebus, the Scaligers, P. Manutius, Aldus Manutius, the younger, Casaubon, Fagius, the Moreles, Gesner, Fabricius, Morus, Glass, Capellus, Grotius, Usher, Lightfoot, Montfaucon, Vossius, Heinsius (father and son), Bochart, Meursius, Robert and Henry Stephens—all of them scholars of the very first order; to say nothing of the incomparable divines and illustrious authors of every sort and in every nation who flourished during the same period. Now, though all these were not living at the time our translation was made, yet a majority of them were contemporary with the translators, and they show the general character of the age—that it was the age of great men, especially of great scholars. The eighteenth century excelled it in science and works of taste. But for men of profound erudition, beyond all contradiction there never was such a period since the foundation of the world. The turn which the Reformation took, and the great controversy between the Papacy and its opposers, appealing at every step to the original languages of Scripture, made Greek and Hebrew what politics is now—the great absorbing topic of the world. Critical editions of the Bible and of classical authors were published on a scale and in a style utterly unparalleled. The immense Thesaurus of the Greek language by Henry Stephens, the Rabbinical Lexicon of Buxtorf, the Arabic Lexicon of Golius, the Hierozoicon of Bochart, the twelve folio volumes of Meursius on Grecian antiquities, are but specimens of the thoroughgoing manner in which the scholars of that day handled every subject. It is impossible even to glance at their productions without a profound admiration of their scholarship, only equalled by the effrontery which would call it in question. Their very printers were learned men. Even their books of devotion are so crowded with Greek and Hebrew that many a sciolist of these days could not read a page of them without his lexicon and grammar, who yet would not blush to call himself a scholar, or to attempt, with some 'consulted aids,' to make a new translation of the Bible."—*Princeton Essays*.

occasionally happened that *an individual, as inferior to them in erudition as in talents and integrity, is found questioning their motives or denying their qualifications for the task which they so well performed.** Their version has been used, ever since its first appearance, not only by the Church, but by all the sects which have forsaken her; and has been justly esteemed by all for its general faithfulness, and the severe beauty of its language. It may be compared with any translation in the world without fear of inferiority; it has not shrunk from the most rigorous examination; it challenges investigation; and, in spite of numerous attempts to supersede it, has hitherto remained unrivalled in the affections of the country."

Section IX.—Polygamy, and its bearing on this Question.

The validity of the argument for the lawfulness of marriage with the sister of a deceased wife, depends entirely upon the ability of those who maintain the affirmative to prove that polygamy was lawful in the sight of God, and being lawful cannot be condemned in Lev. xviii. 18, and that the phrase, "a wife (a woman) to her sister," *must* mean two natural sisters, or sisters by blood. Both these propositions they affirm. The question is, Can they be made good? Unless they can, their whole Scripture argument falls to the ground. We affirm that they *cannot* be made good; and if even this negative affirmation can be maintained, though we could not make good the positive affirmation on the other side, *their* argument is shaken to its foundation. With the assertion that the phrase "wife (woman) to her sister," *must* mean two sisters by blood, and that the verse is a prohibition of the simultaneous marriage of such, while it actually warrants their marriage in succession, we have already dealt, and have the conviction that none but those who are sorely in want of an argument would peril a grave question on the narrow basis of the criticism of Robinson and Bush on the point. Bush himself does not.

The assertion that polygamy was lawful under the Old Testament dispensation, must now be discussed. The question, then, is,—Has the doctrine of the lawfulness of polygamy any divine warrant in any part of the Old Testament? And is this so clear as to warrant the rejection of the marginal reading of Lev. xviii. 18? We assert the negative in both of these questions. Because,—

I. God originally declared and enacted that a man should have but one wife at a time, and *vice versâ*. The Lord Jesus Christ, who, in fact, was the original Lawgiver, expounded this enactment, and confirmed it as a statute that had never been repealed (Matt. xix.), and ought never to have been violated. This being the original law of marriage, and continuing, as all must admit it did, to be the law downwards from the creation to, at least, the time of Moses, it follows that the conduct of all polygamists whatsoever, previous to the time of Moses, was a violation of that original law; and our Lord held it to be so. Be their conduct or character in other respects what it may, certain it is that, in so far as they were polygamists, they were transgressors of that law of God under which they lived, and to which they were amenable, and to that extent, at least, were condemned thereby. The mere fact of *their violating* the law "could not make it of none effect." Even had Dr M'Caul not told us that "the law of Moses plainly sets forth that polygamy is opposed to the original constitution of

* The italics are Whitaker's.

marriage," we should have known, on the authority of God himself, that just as "the law which was four hundred years thereafter could not make the promise made to Abraham of none effect," so no more could the law of Moses, which was twenty-five hundred years *after* the enactment of the original law of marriage, and four hundred years after the violation of it by the latest polygamists previous to the time of Moses, disannul the condemnation which that original law, under which these polygamists lived, and which they had violated, had passed upon their conduct, or make that which was sin in them—"for sin is the transgression of the law"—an approved example to any others, or a proof that what they did was no sin at all. The assertion to the contrary would be such an outrage on all common sense as well as on all Scripture principle, that it would require to be supported by something stronger than an inference drawn from a text the meaning of which is disputed. This is our first argument.

II. Our second is, that the law, as laid down by the same Supreme Lawgiver, the Lord Jesus Christ, undeniably *now* is, that polygamy is contrary to the will of God, and has been so from the time of Christ's manifestation in the flesh. He cannot be held a Christian who will dispute this.

III. Our third argument is, that there is no evidence to warrant the belief or assertion that God, in the Mosaic code, repealed his own original enactment, or that Jesus Christ promulgated a *new* enactment, or re-enacted a statute that had been divinely repealed; and without evidence to that amount, there is and can be no evidence that polygamy ever was at any time, or in any circumstances, or to any extent, sanctioned by divine authority.

IV. Lastly, there is nothing in the character of the polygamists during the time of the Mosaic dispensation, from its beginning to its close, or in God's dealings with them, that warrants the conclusion that *their* conduct and example are of more authority in the sight of God than those of the ante-Mosaic polygamists, to set aside the authority of God's original enactment by an *ex post facto* effect, or to prove that the authority of the same Lawgiver, as asserted after that dispensation had come to a close, had not any application to the same effect in the intermediate period of that dispensation's existence. The argument contained in these four heads exhausts the question, and if it can be maintained, will settle the dispute.

Section X.—Polygamy Unlawful before the time of Moses.

I. I request the reader's attention to the first argument, which, as it is of some length, I do not here repeat. The first statement it contains is in substance, that the Supreme Lawgiver, the Lord Jesus Christ, or, if you will, the I AM, Jehovah, of the Old Testament, prohibited polygamy at the first institution of marriage, in the following terms:—Gen. ii. 18, 22–24—"And the Lord said, It is not good that the man should be alone: I will make an help meet for him. . . . And the Lord God brought the woman unto the man, and Adam said, This is now bone of my bone, and flesh of my flesh: She shall be called Woman, because she was taken out of man. Therefore shall a man leave his father and his mother, and shall cleave unto his wife; and they shall be one flesh." Our Lord himself explains its meaning in Matt. xix. 3–6:—The Pharisees tempting him said, "Is it lawful to put away his wife for every cause?" The answer is,

"Have ye not read, that he which made them at the beginning, made them male and female; and said, For this cause shall a man leave father and mother, and shall cleave unto his wife; and they twain shall be one flesh? Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder." And to the captious question of the Pharisees cleaving to their corrupt tradition and more corrupt practice, v. 7, "Why did Moses then COMMAND to give a writing of divorcement, and to put her away?" He replied, v. 8, "Moses, because of the HARDNESS of your heart, SUFFERED you to put her away; but from the beginning it was not so. And I say unto you, Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery; and whoso marrieth her which is put away doth commit adultery." The married man and his wife are ONE, and no human authority must part them. "Let not man put asunder." It is a unity that neither of the parties can convey to any other parties without its destruction, and, consequently, without destroying the law of God. This is, and was at the first, God's constitution of marriage. Polygamy destroys it, and therefore runs in the face of the law of God. "*Man*" is prohibited by God from any such impiety. What God has done, let not "*man*" undo.

Many important remarks might be drawn from this great original law of marriage. They are not necessary for our present argument, and I forbear. They will be found in Dwight; from whom I copy the following:—

"This is equally evident from the comment of Christ. After admitting that Moses permitted divorces, and assigning the reason for it, he first declares that the original law of marriage did not permit them; and then, with a single exception, abrogates the Mosaic permission. The original law did not allow of divorce in any case. He allows it in one—that of incontinence. With this exception, he places the law of marriage on its original footing; and declares, in language which cannot be misunderstood, its real force and meaning: 'He who putteth away his wife, except for incontinence, and marrieth another, committeth adultery.' But in what does the adultery, thus committed by the husband, consist? Not in the mere putting away. That might be cruelty, but it is not adultery. Not in the mere marriage contract. If it had stopped at that, there would have been no adultery. It consisted in the fact, that, having one wife, he marries and has intercourse with another, before the first is dead or lawfully divorced. By the original law of marriage, therefore, as thus explained by Christ, the man who, having a wife, marries another, before the first is lawfully divorced, is guilty of adultery. But every polygamist does this: every polygamist therefore is guilty of adultery. Of course polygamy, according to the original law of marriage, is adultery."*

On this permission of divorce, I remark, that our Saviour does not say that divorce was lawful for every or any cause. He says, the original law was, that husband and wife were one, and could not be parted; and this must continue throughout all time. When was this law enacted? When Adam was in innocence. It is, therefore, as much the law of God to all men, as is the law, "Thou shalt love the Lord thy God with all thy heart, and thy neighbour as thyself." What was the import of the permission in the time of Moses? Not a sanction of divorce, or to any extent a repeal of the original law, but a relief to a woman unjustly and cruelly oppressed; not the relief to the man, as the Pharisees held it, from the law of God,

* Dwight's "Hebrew Wife," p. 9.

which still remained in force, but a relief to the woman from the wickedness of man ; for surely it will not be pretended that the "*hard-heartedness*" of a ferocious husband is a justification of that which God, *under the Mosaic dispensation*, declared he hated, viz., "putting away?" The original law remained then, and our Lord tells us remains still in all its force, unrepealed ; but a relief to a poor woman from the oppression of man, now a sinner and violator of God's law, and an obligation that when his "*hard-heartedness*" drove her away to make certain provisions for her protection, is no proof of a repeal of the original law, but the reverse. When the original law was made, there was no "*hardness of heart*," and the original law never was repealed. "*Hardness of heart*" in man could not make lawful a violation of God's law. Moses did not, as the Pharisees and other corrupters of the Word of God, by their traditions, said, "*command*" to put her away. He commanded "to give her a written divorcement;" but our Lord says, he only "*suffered*" to put her away, because of the "*hardness of their hearts*"—to escape from her husband's brutality. But neither the original law, nor any other law, ever *sanctioned the brutality* ; and the act, on the part of him who practised it, was a criminal violation of the law. *She* was left free to marry another man, because she had done no wrong ; but the man who put her away was not permitted, in any circumstances, even though her second husband were dead, to marry her again. This is pronounced an abomination—Deut. xxiv. 1-4, "When a man hath taken a wife, and married her, and it come to pass that she find no favour in his eyes, because he hath found some uncleanness in her : then let him write her a bill of divorcement, and give it in her hand, and send her out of his house. And when she is departed out of his house, she may go and be another man's wife. And if the latter husband hate her, and write her a bill of divorcement, and giveth it in her hand, and sendeth her out of his house ; or if the latter husband die, which took her to be his wife : her former husband, which sent her away, may not take her again to be his wife, after that she is defiled ; for that is abomination before the Lord : and thou shalt not cause the land to sin, which the Lord thy God giveth thee for an inheritance."

In connection with this particular subject we have to observe, that great light is thrown upon it by the prophet Malachi, proving that *he* at least did not consider the original law repealed, whether as regards polygamy or adultery. In chap. ii. 10-16, he, or rather God by him, reproves the Israelites with great severity, for their numerous divorces, and cruelty to their wives. His words are,—"*Yet ye say, Wherefore ? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously : yet is she thy companion, and the wife of thy covenant. And did not he make one ? Yet had he the residue of the Spirit. And wherefore one ? That he might seek a godly seed. Therefore take heed to your spirit, and let none deal treacherously against the wife of his youth. For the Lord, the God of Israel, saith that he hateth putting away : for one covereth violence with his garment, saith the Lord of hosts : therefore take heed to your spirit, that ye deal not treacherously. Ye have wearied the Lord with your words. Yet ye say, Wherein have we wearied him ? When ye say, Every one that doeth evil is good in the sight of the Lord, and he delighteth in them ; or, Where is the God of judgment ?*" This passage declares against the Israelites as plainly as language can do, both against their polygamy—that they had violated the original law, by which he

made "both one," and against their divorce—that he hated "putting away;" and he warns them against the wickedness of defending their iniquity in these respects, and pretending they had done no evil, but "good in the sight of the Lord;" and, because they were not immediately destroyed, denying that there was "a God of judgment." What a perfect description and condemnation of the whole argument for polygamy, as maintained from the example of the Israelites! This, however, is anticipating the argument under another head. On the point in hand, this passage in Malachi clearly shows, that, "in the original constitution of marriage, God made one woman only, and united her to Adam, and thus appointed marriage to be the union of one man with one woman. He was able to have made more; why, then, did he create *one*? Because he foresaw, if more than one woman were created and given to Adam—in other words, if polygamy, and not marriage, were established—that a godly seed would be impossible. This is a plain declaration, therefore, that God forbade the human race to practise polygamy, because of its immoral tendency."—*Dwight*.

On Malachi ii. 15, the celebrated Samuel Clarke gives the following brief but pithy notes:—"And did not he make one.—Matt. xix. 4.—One couple, which should become one flesh by marriage, against which polygamy is an offence. *Residue of the Spirit*.—And so could have made more souls, and put them into more women for Adam, if he had thought good to have allowed of a plurality of wives. *Let none deal treacherously*.—By forsaking, neglecting, or taking another." On my remarking to a party in conversation on this point, that one man to one woman was the original law, and that polygamy never was, and never *could* have been the normal condition of any people, he replied, that "in many countries it was the normal condition with the rich and great." Who, then, does not see the absurdity of attributing to God the repeal of his own law, merely to indulge great or rich men in a practice most certainly as destructive to themselves, as ruinous to the peace of their families, and to the best interests of humanity?

The fact is established beyond all power of contradiction, that the original law was not repealed *before* the time of Moses. It was from the creation till then the unrepealed law of God on the subject.

Our first argument, then, cannot be questioned. Whatever, therefore, was the character of the ante-Mosaic polygamists in other respects, they were polygamists in the face of the unrepealed law of God. Nothing, therefore, can by possibility be adduced from their conduct or example in favour of polygamy. They are condemned by that law of God under which they lived. The present agitators for the repeal of the marriage law think it a sufficient reason for condemning it, if they can discover, or by their speeches and writings make, as many breakers of the law as may be sufficient to frighten Parliament, or who have a decent name or standing in society in other respects. But surely no man, in his sober senses, will say, that any number, larger or smaller, of ante-Mosaic polygamists of a similar description, by the very fact of their breaking God's law, have repealed it?

But what are the facts as to those polygamists? They are briefly these. —Lamech was the first of them; if he was guilty of murder, as some suppose, he is no great example to follow; or if, on the supposition that his wives were under apprehension that because of his polygamy he was to be put to death, that is no great proof of its lawfulness. The only other

antediluvian polygamists, if even they were so, were the giants, or men of violence, of whom we read in Gen. vi. 1-7, who "took them wives of all whom they chose;" and for this and their violence brought down upon that race the overwhelming deluge. It is curious to remark how generally lust and violence, and even murder, are associated together. It is a fact so established, that I find Baron Hume, after detailing the law in certain cases of adultery followed by murder, saying—"And here, in passing, it may be remarked, on these miserable cases of complicated guilt, that they furnish (if any were needed) another evidence of the wisdom of our practice in stigmatising as a crime this sinful intercourse, which thus suppresses all the feelings of nature, and leads to the mortal hatred of the nearest relations."*

There are only, then, two examples of antediluvian polygamy, and *their* example is not much in its favour,—that is, two cases in fifteen hundred years. From Noah to Moses, we have only other two. Nahor, Abraham's brother, had a concubine; but whether during the life of his wife or after her death, we are not told. The case of Abraham and Hagar was not one of polygamy; and the result of his connection with her, whatever it was, shows that she was not his lawful wife. His marriage with Keturah was seven years after the death of Sarah. Isaac had only one wife, and none of all the patriarchs sustained a more pious and blameless life than Isaac, "and in Isaac was the promised seed called."

Esau, "that profane person," had three wives. "And Esau said in his heart, The days of mourning for my father are at hand; then will I slay my brother." In all this there is no great argument for polygamy.

In regard to the case of Jacob, Mr Dwight says,—“Jacob, while in the family of Laban, lived among idolaters who practised polygamy. Laban and his children were idolaters, yet polygamy was no part of Jacob's plan of life. Leah was put upon him by a fraud, to which he must submit or hazard the loss of Rachel. He likewise told his father several direct falsehoods, and with extreme cruelty defrauded Esau of his birth-right.”

It is remarkable in the case of Jacob, that Leah, the first wife, obviously thought herself injured by Rachel becoming a wife. She claims Jacob as *her* husband, and reproaches Rachel for taking him—(Gen. xxx. 15)—“Is it a small matter that thou hast taken my husband? and wouldest thou take my son's mandrakes also?” You have done me one great injury, will you do me another?

We have thus made good our first position. The original law of God condemned the ante-Mosaic polygamists; and nothing appears in their character or conduct to justify this violation of the law of God, still less to prove that what was their sin should be an example to others to follow, and not rather a crime to be shunned. For twenty-five hundred years we have only on record four instances of polygamy, and these condemned by the law of God. There is nothing, then, in the history of these twenty-five hundred years to prove that when we hold that Lev. xviii. 18 is a prohibition of polygamy, such prohibition is inconsistent with the law or word of God, but, on the contrary, it is entirely in accordance with what was that undoubted law for twenty-five hundred years, and in no respect repealed during all that time.

Perhaps I may anticipate an objection that might occur to some minds

* Hume on the "Criminal Law of Scotland."

here,—viz., if it was the law during twenty-five hundred years, and till the time of Moses, why re-enact it in Lev. xviii. 18? The answer is not far to seek; and we answer the question in Scotch fashion by another,—Why were the ten commandments re-enacted at Sinai? God answers, “More-over the law entered that the offence might abound;” in other words, that all sin might be proved exceeding sinful, because inexcusable. Besides, at Sinai the law was not only declared, but written and recorded, for the sake of all future time.

II. Our second argument needs now only to be stated, and that as having a bearing on our third. It is, that the law, as laid down by the same Supreme Lawgiver, the Lord Jesus Christ, now is, that polygamy is contrary to the will of God, and has been so since the time that Christ interpreted it, as laid down in Matt. xix., and must be held so by every man who receives the law at his mouth.

III. I go on, therefore, to my third argument, which is, that there is no evidence to warrant the belief or assertion that God, in the Mosaic code, repealed his own original enactment prohibiting polygamy, or that Jesus Christ promulgated a new enactment, or re-enacted a statute that had been divinely repealed in the Mosaic code, or in any other way; and without evidence to this amount, there is and can be no evidence that the original law prohibiting polygamy ever was at any time, or in any circumstances or to any extent, repealed by divine authority.

Two things are clear—1. That by the original constitution of marriage God prohibited polygamy. To Adam, though it had not been expressly prohibited, it was impossible in the first instance, and thereafter only in a shape from which nature revolts; and if prohibited to *him*, it were strange indeed that it should be declared lawful to any or every other. 2. It is forbidden, by a law equally express, by the Lord Jesus Christ, without the smallest intimation that he is repealing an existing law, whatever might be existing practice. He announces, when dealing with another subject, the cruel abuse of a gracious permission to escape from the brutality of a cruel husband, or rather a law to be civilly enforced to bind that cruel husband, if he did put away his wife, to do it in a form that gave the legal evidence that, being separated by his cruelty, it was no fault of hers, and she might be at liberty to marry another man, but he for ever prohibited from claiming or taking her back to wife. This is the real import of that law,—viz., a restraint upon cruelty, and an escape from its unjust consequences. God declared “He hated putting away;” and no man, Christian or Deist, will plead that it is *right* to do what God HATES. But our Lord, while affirming the first law of marriage on this point, gives not the smallest hint that he is re-enacting a law that had ever been repealed in the case of polygamy; but he expressly declares what always was and is the law of God, without the smallest allusion to any repeal.

Malachi, we have seen, the last of the prophets, did the very same. He not only gives no hint that it had ever been repealed, but his words, as the closing intimation of the Old Testament canon, are a solemn rebuke and judgment against it.

In a case so clear and strong, therefore, we are entitled to demand the formal statute of repeal. It was an important statement made by the late Dr Wardlaw, in his Treatise on Baptism, that the repeal of an old law requires as express a statute as the enactment of a new. Those on the other side are not entitled to plead Lev. xviii. 18, in the present state of the

argument, as a statute of repeal. The present state of the argument is, Whether the view we take of this verse as a prohibition of polygamy be correct? and they cannot assume the very point in debate,—viz., that *their* interpretation of it is correct, and then quote their interpretation to prove that ours cannot be correct. This were obviously absurd. They must, by strict critical evidence, and that, in such a case, of the clearest kind, as is necessary in a repealing statute, prove that our view of the text is, without all doubt, inadmissible and false. You cannot repeal an undoubted law by a criticism reduced, as theirs is, to the smallest point of probability as to its justice,—a probability, as we have seen, depending on refinements scarcely tangible even in argument. This verse, then, while its meaning is in debate, cannot be pled as the proof that our view of itself is false. The proof of the repeal must be drawn from some other source than the disputed text. When their view of it is rendered indisputable by undoubted critical proof, then they may quote it as the statute of repeal. When, then, they allege against our view of it that the original law of God, which Christ appealed to, without the smallest hint that the *sufferance*, even of Moses, extended to polygamy, was repealed by the Mosaic code, we are entitled to demand the statute of repeal. Mere violations of the original law, by *whomsoever* practised, are not statutes of repeal. “Yea, let God be true, and EVERY MAN a liar,” saith the Scripture.

In reply to this call for the repealing statute, three texts, says Mr Dwight, have been adduced in addition to Leviticus xviii. 18, with which we have already dealt, as containing direct or implied permissions of polygamy. These are Exod. xxi. 7-11, Deut. xxi. 15-17, and 2 Samuel xii. 7, 8, which he discusses minutely.

In regard to the first passage he makes good the following points:—That the word “please” (ver. 8) in our version should be “displease;” that the words in the tenth verse, “if he take him another wife, her food, her raiment, and her duty of marriage,” &c., should be “another,” *wife* being in italics; “duty of marriage” should be habitation, lodging, or necessities of life,—what we would call maintenance; and he gives the following summing up:—

“That the word in question ought not to be rendered *duty of marriage*, is therefore obvious for the following reasons:—

“1. As the girl was not married, and the master, because he disliked her, would not even betroth her, the duty of marriage was impossible. Any sexual duty rendered in those circumstances must have been the duty of illicit intercourse.

“2. No derivation of the word, as well as no use of the word, or of any cognate word in any other case, will associate with it the idea of lawful intercourse by marriage; it having no reference to any commerce of the sexes but what is unlawful.

“3. The weight of authorities is wholly against the rendering.

“4. The other rendering, viz., *habitation, lodging*, is the natural rendering of a noun derived from the verb עָנָה, *to dwell*, and the actual rendering of another noun derived from the same verb, has the weight of authorities in its favour, and is consistent with the declaration in the eighth verse that the girl was not betrothed, as well as with common decency.

“The whole passage, thus corrected, will read as follows:—

“Ver. 7. And if a man sell his daughter to be a maid-servant, she shall not go out as the men-servants do. 8. If she please not her master, so that

he doth not betroth her to himself, then he shall suffer her to be redeemed (i. e., when the opportunity of establishing her in marriage has arrived); to sell her unto a strange nation he shall have no power, seeing he hath rejected her himself. 9. And if he betroth her to his son, he shall deal with her after the manner of daughters. 10. If he marry another person, he shall furnish her with food, clothing, and lodging (or the necessaries of life.) 11. And if he do not furnish those three, he shall let her go out free, without money.

"The verb *מָכַר*, in the seventh verse, rendered *sell*, according to Gesenius, usually denotes *to receive a marriage portion for*. The master, by paying it to the father, had a right to the services of the daughter as a maid-servant, and if he were a single man to marry her; the right of choice on the part of females not being known in the East. If the master were married, or chose not to marry her himself, he had a right, if she was of the proper age, to betroth her to his son, without paying an additional portion. If neither of these were done, her friends, by paying back the portion received, had a right to redeem her, and to marry her to another man. If she was not redeemed, and her master chose not to marry her, and married another woman, he was bound to furnish her with the customary food, clothing, and lodging; and, on failure of these, she was at liberty to go back to her friends unredeemed.

"This passage, therefore, contains no sanction of polygamy, and no permission of the gross immorality and cruelty apparently authorised by the English translation." *

Those who decline to receive this view, must disprove it by disproving Mr Dwight's arguments in arriving at it.

The next text is found in Deut. xxi. 15-17, "If a man have two wives, one beloved, and another hated, and they have borne him children, both the beloved and the hated; and if the firstborn son be hers that was hated: then it shall be, when he maketh his sons to inherit that which he hath, that he may not make the son of the beloved firstborn before the son of the hated, which is indeed the firstborn: but he shall acknowledge the son of the hated for the firstborn, by giving him a double portion of all that he hath: for he is the beginning of his strength; the right of the firstborn is his."

The argument of our opponents, and it seems to be considered a strong one, is, that Moses legislates, not in favour of polygamy, that they cannot say, but about certain other things which imply its existence, and that so legislating he sanctions polygamy. This argument has never had the smallest weight in my mind. That, however, is small reason for other minds. But ought it to have weight in any mind competently informed? I think not; because it will occur to every mind of any competent information, that multitudes of laws are in every country framed to prevent the extension of the mischief of unlawful acts, or to regulate matters arising out of them. It is just the carrying out in a specific case of the principle in Ezekiel xviii. 20, "The son shall not bear the iniquity of the father." In God's providence he often is made to bear the effects of it; and human laws, as in cases of great crimes, to deter from their commission, take advantage of natural feelings to make the commission of them more terrible; but in the case before us that principle could not come into play. The loss of the inheritance to the son of the hated woman would be no bar to the mind of

* Dwight's "Hebrew Wife," pp. 14-16.

the guilty polygamist in the way of his crime, but rather smooth the way to its perpetration, and would please both him and his partner in sin. The sin is punished by depriving him, as well as his partner in sin, of this advantage, and the fruit of it, of any such benefit and encouragement to their cruelty and lust. Even though it *were* a case of a man having two wives at once, which, as will be presently shown, it is not, such legislation is not a sanction, but a condemnation of the sin, and a defence of a party who does not share in the sin. Legislating to give the polygamist an advantage for indulging his polygamy would be an argument in its favour,—not so as it now stands. Moreover, if this principle be good, they must go through with it. If it sanction the two wives, it must do it in such a case as that of Leah and Rachel, which they say is forbidden, and destroys their own interpretation of Lev. xviii. 18, and consequently destroys the inference they draw from it, which is all that is to their purpose. Besides, if the provision for the “firstborn” sanction the two wives at once, it sanctions also the *hating* and *putting away*, in regard to which God expressly commands the opposite of the one, and declares his *hatred* of the other.

Let it should occur to any one that the phrase “firstborn” might refer to the son of the second wife married, that son is excluded from such a right. Moreover, the phrase itself confirms our reasoning, the word being the technical word for *heir*, “he may not make the son of the beloved, first-born before the son of the hated, *which is indeed* the firstborn;”—the words “*which is indeed*” being properly supplied to make the sense clear, as is plain from what follows:—“But he shall acknowledge the son of the hated for the firstborn, . . . the RIGHT OF THE FIRSTBORN IS HIS.”

Mr Dwight, after quoting the passage as given above, disposes of it in the following most satisfactory way:—

“The argument here used is this:—Moses here legislates on the case of a man who has two wives at the same time; but he could not lawfully legislate upon that which might not lawfully exist: to have two wives at the same time was therefore lawful. Or, to state it in the Latin of the schoolmen, *Qui disponit de consequenti*, i. e., *de jure inter liberos polygamorum, ille etiam vult antecedens*, i. e., *polygamiam*.”

“For a moment we will admit, for the sake of argument, the *major* of the syllogism, viz., that Moses here legislates upon the case of a man who has two wives at the same time. Let us then test the *minor* by a parallel case. In Deut. xxiii. 18, it is said, ‘Thou shalt not bring the hire of an harlot into the house of the Lord thy God, for any vow.’ Taught then by the schoolmen, we thus argue,—Moses here legislates upon the wages of a harlot, and therefore supposes that harlots will receive the wages of prostitution; but he could not legislate upon that which might not lawfully exist: to be a harlot, and earn the wages of prostitution, were therefore lawful. This conclusion sounds oddly when we read the remainder of the verse, ‘For this is an abomination unto the Lord;’ or the preceding verse, ‘There shall be no harlot of the daughters of Israel.’

“Let us test this principle by another case. By the common law of England, if an illegitimate son is born, and the parents subsequently marry, and have a legitimate son, the latter, who is called *mulier-puissné*, has a right to the inheritance. But if, after the father’s death, the older son, who is styled *bastard-éigné*, enters on the estate, and enjoys it till his death, and dies seized thereof, leaving issue male, that issue shall inherit the estate;

and the legitimate son and his heirs are for ever barred of their right to it. The reasoning of the schoolmen, applied to this case, would be as follows: *Qui disponit de consequenti*, i. e., *de jure inter liberos scortorum, ille etiam vult antecedens*, i. e., *scortationem*. This conclusion would light up a smile, even on the face of a logician.

"But the question now presents itself, Does Moses here legislate upon the case of a man who has two wives at the same time? That our translators themselves thought otherwise, and that they actually wrote, 'If a man have had,' and not 'If a man have,' and that the word *had* was omitted by some mistake, is highly probable from the fact, that they say in the same verse, 'and the firstborn be hers that was hated,' not 'hers that is hated,' evidently intimating that she (the first wife) was dead at the time referred to.

"To put this question at rest, however, I will cite the various versions of the Polyglott.

"Septuagint.—*Εαν δε γενωνται* (not *γινωνται*)—*και τεκνωσιν παιδας* (not *τεκνωσιν*) κ. τ. λ. 'If there have been to a man two wives, and they have born him sons,' &c.

"Vulgate.—*Si habuerit homo uxores duas, et pepererint ei filios?* 'If a man have had two wives, and they have born,' &c.

"Arias Montanus.—*Cum fuerint viro duas uxores, et pepererint filios.* 'When a man has had two wives, and they have born,' &c.

"Samaritan version.—*Cum fuerint viro duas uxores, genuerintque filios.*

"Targum.—*Si fuerint viro duas uxores, et pepererint ei filios.*

"Syriac Version.—*Cumque fuerint alicui duas uxores, et pepererint, &c.*

"Arabic.—*Et cum fuerint viro duas uxores, et ambas genuerint filios.*

"I will only add, that the words rendered *have had*, and *have born*, both in the original and in all the translations, are in the same tense, and refer to events that have already taken place. Moses, therefore, does not here legislate upon the case of a man who has two wives at the same time, but upon the case of a man who has had two wives in succession, the second after the decease of the first. And there was an obvious necessity of his legislating upon this precise case; for the first wife, who was hated, was dead, and the second wife, the favourite, was alive, and, with the feelings of a stepmother, would urge her husband to make her own son the heir. This passage, then, furnishes no evidence that polygamy was lawful under the Levitical code."

Up to this period, then, we have nothing like a repeal of the original law, either formal or implied.

The third passage, viz., 2 Sam. xii. 7, 8, must fall to be considered under our fourth argument. It has no one of the characteristics of a repealing statute, either express or implied. Before considering its bearing, we may notice the time that had elapsed between it and the giving of the law of God by Moses. There had intervened a period of 500 years. During all that period there is nothing that wears the shadow of an appearance of a vindication or sanction of polygamy. The case of Elkanah is only proof of its great evil; and he lived at a time when "there was no king in Israel, and every man did that which seemed right in his own eyes." In the other five instances of that long period, about one to the hundred years, there is nothing to hold them forth in any other light than as beacons to warn of its evils and dangers. There is no proof that Jair, though he had thirty children, was a polygamist. Dwight gives the case of an Ame-

rican who, a few years since, petitioned the legislature for exemption from certain taxes on the ground that his wife had born him twenty-nine children, most of whom he had educated. He mentions another case, in which one married pair had thirty children. Jair, then, might have had, by his one wife, thirty children; and certainly, by two in succession. The writer knows of the case of one pair with twenty-one children.

If, then, there was no repeal of the original law of marriage, which had subsisted for 2500 years to the time of Moses, and we have only these five instances for the next 500 years, these cases are more probably noticed for their singularity, and sin, and mischief, than as examples to be followed. One of them is the case of Gideon, who led Israel into idolatry, while Abimelech, the son of his concubine, slew all the other sons of his wives but one; another proof that murder and lawless passion are sadly connected with one another. The next case to be mentioned forms, alas! no exception to this terrible truth.

Farther, in regard to David, he had the original law of God as completely before him as the supposed repeal of it in Lev. xviii. 18. At best the supposed repeal is only an inference from Lev. xviii. 18; because the prohibition to marry two sisters by blood at the same time, is not necessarily a sanction to marrying as many other women as a man pleases. To my mind it is the reverse; and to the minds of the ablest commentators who admitted or did not question the fact of its relating to the case of two sisters by blood, it presented no such permission. Something else, then, was necessary to justify David in overlooking in his conduct the original law of God than an inference so very doubtful. There is nothing hitherto that ought to convince us that the statute was repealed, and that the repeal is in Lev. xviii. 18.

In my view, the idea that God repealed a law which concerned all men, to sanction a practice which never has been, and from the nature of things never can be, the normal condition of mankind, and for no other end than to afford rich and great men the opportunity of indulging their lust, or at the best increasing their state and show, is so ineffably forbidding, nay disgusting, that I must doubt the justice of any *mere inference* that involves it, and must have something clearer than a criticism dependent on such a nicety as a refinement on one text out of *thirty-five*, to thirty-four of which thirty-five, it cannot apply, though the form of expression be the same. Though there is no semblance of a repealing enactment, either express or implied, in the words of 2 Sam. xii. 7, 8, is there *any thing* in it that can have the *effect* of repealing the original law of marriage? I have shown that polygamy is contrary to the original law, and that it is contrary to the doctrine of the prophet Malachi.

IV. I now proceed, therefore, to consider 2 Sam. xii. 7, 8 under my fourth head, which is as follows:—There is nothing in the character of the polygamists during the time of the Mosaic dispensation, from its beginning to its close, or in God's dealings with them, to warrant the conclusion that their conduct and example are of more weight as proof that God's original enactment was repealed during that dispensation, than there is in the conduct and example of the ante-Mosaic polygamists to prove that that enactment had been repealed previous to the time of Moses. Much less is there any thing in the conduct of the parties referred to, or in God's dealings with them, to prove that the will of the Supreme Lawgiver, as declared in the original law previous to the existence of the Mosaic dispensation, and as anew declared after that dispensation had come to a close, was not the

same in regard to the matter in dispute during the currency of that dispensation, as confessedly it had been before, and has been since.

The circumstances in which the words of 2 Sam. xii. 7, 8, occurred are these. The prophet Nathan is sent to reprove David, and to arouse him to a sense of his guilt in the matter of Uriah, by convicting him, out of his own mouth, by the beautiful parable of THE ewe-lamb, which shows that Uriah at least had but *one* wife; and at the moment that he has made David pronounce his own condemnation, it is added, "And Nathan said to David, Thou art the man. Thus saith the Lord God of Israel, I anointed thee king over Israel, and I delivered thee out of the hand of Saul, and I gave thee thy master's wives into thy bosom, and gave thee the house of Israel and of Judah; and if that had been too little I would have given thee such and such things. Wherefore hast thou despised the commandment of the Lord, to do evil in his sight? Thou hast killed Uriah the Hittite with the sword, and hast taken his wife to be thy wife, and hast slain him with the sword of the children of Ammon. Now therefore the sword shall never depart from thine house; because thou hast despised me and hast taken the wife of Uriah the Hittite to be thy wife." Twice is the taking of the wife of Uriah to be his wife mentioned as the burden of his crime. It is not the single adultery, before Uriah is killed, but the double and continued adultery implied in the polygamy after he is killed, that is dwelt upon. And the punishment is, in God's way, appropriate to the crime. His own iniquity—iniquity like his own—is made to correct him. *He* is not put to death for the murder. He does not, however, escape punishment. It is inflicted in the very form of the lust that led him to commit murder.

Not only is there here the crime of murder, and of adultery in heart, but the guilt is aggravated by the reason assigned for the judgment to be executed on him in ver. 10, "Now, therefore, the sword shall never depart from thine house, because thou hast despised me, and hast taken the wife of Uriah the Hittite to be thy wife." By his murder he had made her a widow. But she is called Uriah's wife. By this time she was free from the law of her husband. But the sword is made to rest upon the house of David because he took her to wife. He, in short, added iniquity unto iniquity—acted as if nothing would satisfy his insatiable passion. Though God in his providence had put him in possession of all that is named, his lust was not satisfied, but he followed it out to its consequences in murder, in order to add to his wives; and in this very matter of polygamy was his punishment made to consist,—not in his being put to death, as, by the law, he deserved to have been. God pardoned him as to that punishment, but executed the threatening that he would see his own son committing the same abominations, and with his father's concubines; and it came to pass as threatened, ver. 11-14—"Thus saith the Lord, Behold, I will raise up evil against thee out of thine own house, and I will take thy wives before thine eyes, and give them unto thy neighbour, and he shall lie with thy wives in the sight of this sun. For thou didst it secretly, but I will do this thing before all Israel, and before the sun. And David said unto Nathan, I have sinned against the Lord. And Nathan said unto David, The Lord hath put away thy sin; thou shalt not die. Howbeit, because by this deed [the whole complicated wickedness] thou hast given great occasion to the enemies of the Lord to blaspheme, the child also that is born unto thee shall surely die."

God says, "I WILL RAISE up evil against thee out of thine house. I

WILL TAKE thy wives before thine eyes, and *give them* to thy neighbours," &c. God did all this in his providence—made Absalom, David's own son, and in the very way of his own crime, inflict the punishment; but will any one say that this phraseology sanctions the abominations of Absalom, and, still more, that though Absalom had murdered David, or removed him from the throne, and taken his wives to himself, he would have been much more guilty than David, or justified in his abominations, because God said "I WILL TAKE" and "I will give them?" All that can be drawn from this passage is this, that though in God's providence David had so many temporal gratifications he was not satisfied, but added "drunkenness to thirst"—in other words, polygamy to adultery and murder—and received the punishment in his family. In fact, the language employed in the case of David, "I gave thee thy master's wives," &c., is in accordance with the ordinary phraseology of the Bible. Thus in Ezek. xxix. 18-20, "Son of man, Nebuchadrezzar king of Babylon caused his army to serve a great service against Tyrus: every head was made bald, and every shoulder was peeled; yet had he no wages, nor his army, for Tyrus, for the service that he had served against it: Therefore thus saith the Lord God, Behold, I will give the land of Egypt unto Nebuchadrezzar king of Babylon; and he shall take her multitude, and take her spoil, and take her prey, and it shall be the wages for his army. I have given him the land of Egypt for his labour wherewith he served against it, because they wrought for me, saith the Lord God." No man in his senses would affirm that this language was the declaration of God, that Nebuchadrezzar was a man whose general conduct was approved of by Himself, or that, in the very acts of destroying Tyrus and invading Egypt, he was doing that which, relatively to him, was moral and right, though a willing instrument in executing the judgments of God; and God in his providence gave him the reward which he sought, even in gratifying his own lust of dominion. There is in all this not the smallest evidence to strengthen the position that the original law at the creation, and the same law as given by Jesus Christ and binding now, was repealed on behalf of the Jews by Lev. xviii. 18. In fact, the idea is absurd, that God repealed, for the sake of gratifying the lust of a few prosperous Jews—some dozen in all in 1200 years, even David and Solomon being two of them—or in favour of all the Jews put together, a law which has been proved to be binding on all other men. What is there in the universally admitted evils of polygamy—what is there in David—what is there in the Jews—to make such an idea probable?

The only remaining point in the case of David, of any bearing on the argument, alleged to prove a repeal of the original law prohibiting polygamy, is the following: that if polygamy were prohibited by Lev. xviii. 18, the good men of Israel, and David among the rest, must have known it, and yet they lived in open violation of it to the end of their days. The same argument, it will be observed, would prove that the original law did not exist before the time of Moses, else Jacob would not have violated it. There is no proof that he was a worse man than David. Besides, we have the distinct condemnation of the Jews by the prophet Malachi for the violation of the original law, and therefore the clear proof that it was not repealed by Lev. xviii. 18.

Moreover, general declarations that David was a good man, or that any others were good men, or even men after God's own heart—in other words, men whom God selected to accomplish his purposes—are no proof that their

example is to be followed in all that they did. Were it so, it would make terrible havoc in the obligation of the ten commandments; for there is no man that doeth only good, and sinneth not. An example, to be of moral authority, must either be approved of God in the specific case, or be such as, from its very nature, speaks to the moral conscience of human beings. Neither of these can be pleaded as to David's polygamy.

Whatever difficulties there are in reconciling his conduct with the fact of his being a subject of the divine favour, which neither he nor any of the Jews were, *on account of his or their righteousness*, but only by the free grace and pardoning mercy of God, the difficulties are infinitely greater in the way of believing that God's law of one woman to one man was repealed merely to gratify the lust of some great and powerful or wealthy Israelites; and that, too, notwithstanding the universally acknowledged evils and miseries of polygamy.

Anything more perilous than an attempt to determine the law of God from the conduct of men, and above all from the practice of men in that very thing which itself is only a gratification of animal lust, is not to be imagined. I will not venture to say what authority it would require to sanction such an attempt. I will believe anything sooner than I will believe that God's original law was repealed for such a purpose as is alleged in regard to this law. These observations apply also to the case of Joash, 2 Chron. xxiv. 2, 3. It is disposed of by Dwight, with his usual precision and clearness, as follows:—

"It is alleged that Joash, the seventh king of Judah and the grandson of Athaliah, had two wives at the same time, and that the account given of this fact in 2 Chron. xxiv. 2, 3, furnishes a strong presumption in favour of the practice; 'And Joash did that which was right in the sight of the Lord all the days of Jehoiada the priest. And Jehoiada took *for him* (ב) two wives; and he begat sons and daughters.' The following remarks may serve to explain this passage. The Hebrew word ב, rendered *for him*, means alike either *for him*, or *for himself*. The Rabbins render the passage; 'And Jehoiada took *unto himself* (i. e., married) two wives, and begat sons and daughters;' and they insist that he married them in succession. This, if the passage refers to Jehoiada, is probable; for the language implies nothing more than that he had two wives, without specifying when; and there is no instance on record of polygamy in a priest. If we suppose that Jehoiada took two wives for Joash, and both at the same time, still the language here used will not prove polygamy to have been sanctioned by the law of God. It does not follow from the declaration, 'That Joash did that which was right in the sight of the Lord, all the days of Jehoiada;' for, in the parallel passage in Kings, we are told that Joash refused to abolish idolatry during the days of Jehoiada. It is also said of David, that 'he did that which was right in the sight of the Lord except in the matter of Uriah;' yet by his language, apparently so universal, as we have just seen, it was not intended to justify his falsehoods to Ahimelech and Achish, or his disobedience to an express statute in numbering Israel. Of the better class of the kings of Judah, it is also said that they did that which was right in the sight of the Lord during their reigns; and yet the prophets have recorded their numerous sins. The phrase, therefore, means only that their conduct was generally acceptable to God; but furnishes no evidence of the lawfulness of any one specific act. The fact, too, that Jehoiada took two wives for Joash, if it was a fact, does not prove this point. Athaliah

and her son Amaziah had introduced an universal corruption of morals into Judah, and had made idolatry the religion of the court and of the nation. Jehoiada endeavoured to restore the worship of the true God; yet during the king's minority he did not take away the high places, nor put down idolatry, except at Jerusalem. That, in such a state of things, he should have yielded in this point to the king's wishes, when he was forced to yield in points of so much more consequence, will excite no surprise, and can furnish no evidence that polygamy had been sanctioned by the law of God."

There are sundry arguments attempted to be drawn from other circumstances which admit of the most easy explanation, and these arguments are of the most easy refutation.

They are such as these:—That no punishment was inflicted on polygamists by the government. This is answered by the fact, that nine of the thirteen instances were absolute monarchs, and that three of the remaining four were judges or dictators. The same thing would justify David in murder and adultery. Elkanah's case occurred when there was no king in Israel. But this argument, if followed out in Scripture instances of other crimes, would sanction every possible iniquity. Besides, this argument proceeds on a very gross fallacy, which is, that because God legislated directly for the Israelites, and declared the laws by which they should be ruled, he therefore acted as their *immediate* executioner, as any earthly ruler, who had the power and the will to enforce his laws, would and ought to do. This I have called a gross fallacy. It tries the doings of God by the doings of man. It forgets that "one day is with the Lord as a thousand years, and a thousand years as one day;" and that though he often interposes in such form as to show that "verily there is a God that judgeth in the earth," yet he often suspends his judgments till the measure of men's iniquities is full. Thus he did with the Israelites; and, as I have already hinted, the very proof that the Israelites practised polygamy, viewed in connection with God's judgments upon them, is the clear proof that God's threatenings in Lev. xviii. have been fulfilled. Where rulers were the chief offenders, and the people loved to have it so, this was the only way in which God's law could be vindicated; and awfully vindicated it was. It is alleged, also, that no censure is pronounced on polygamists by the Scripture writers. The contrary is proved by Malachi, by the flood, and by the miseries and crimes that arose in the families of polygamists, through the very lusts which such polygamy encouraged. Besides, as in the last allegation of the same kind, if we are to lay down the principle that the persons and actions recorded in Scripture without a direct censure, may be followed as patterns and examples, every crime under the sun may be proved from the Bible to be lawful.

It is a fearful iniquity, too often perpetrated, however, to lower the law of God to suit the crimes of men, rather than condemn the crimes of men by exalting the law of God. If men set out from the point of a desire to vindicate the doings of MEN, they will come to one conclusion on the laws of God; but if from the point, as we ought to do, of a desire to vindicate God, they will come to a very different conclusion. David, on the review of his own conduct, acted on this latter principle, Ps. li. 1-4—
 "Have mercy upon me, O God, according to thy loving-kindness; according unto the multitude of thy tender mercies blot out my transgressions, Wash me thoroughly from mine iniquity, and cleanse me from my sin.

For I acknowledge my transgressions: and my sin is ever before me. Against thee, thee only, have I sinned, and done this evil in thy sight; that thou mightest be justified when thou speakest, and be clear when thou judgest."

I am not disposed to prosecute this part of the argument farther. Those who wish to see every case in the Bible mentioned, and every argument on behalf of polygamy fairly stated, discussed, and removed with as much success as minuteness and patience, must consult the Essay on that subject at the beginning of Dwight's "Hebrew Wife." Until those on the other side attempt to answer it point by point, they are not entitled to assert the lawfulness of polygamy.

I have made good my four positions, and with them removed the objection to our interpretation of Lev. xviii. 18, so far as it depends on the alleged lawfulness of polygamy, and consequently have shown that our general argument against the lawfulness of the marriage of a man with the sister of his deceased wife is not in the least affected by this text.

It may not be out of place to close this part of the subject with the following passage from Broüwer, cap. v., De Polygamia.

Among many other important propositions on the subject of polygamy, there are these:—"16. By divine law, which is contained in the Old Testament, polygamy is prohibited. 17. God tolerated, did not approve of, polygamy in the patriarchs. 18. Christ approves of monogamy—condemns polygamy. 19. It was always prohibited in the Roman laws," &c. In discussing his 16th proposition, viz., "By divine law, which is contained in the Old Testament, polygamy is prohibited," he proves it from the first institution of marriage; that the cases which occurred before the flood were by men whose conduct condemned rather than commended it; that God, in Noah and his family, preserved the race of monogamists, when by the flood he destroyed the polygamists, and showed that the union of one man to one woman was "agreeable to him, sufficient for multiplying the race, and fleeing lust. *Those who do not, or will not receive this are accusers of God*, as if he had not sufficiently provided for the propagation of their race, or for their lust. The Church of God was propagated from the race of Shem, and to the time of Jacob saw no polygamist." He then disposes, as we have already done, of the cases of Abraham and others. After discussing other points, he says, under the 17th proposition:—"Nay, if the words of Moses were rightly understood, as they were understood by Rabbi Ami, who, on this account, was called by the others *heretic*, they acknowledged that polygamy was forbidden by the express law of God. For the prophet forbids to take *one woman to another*, and to uncover the nakedness of another, the former married wife being alive—which place the Hebrews have wrongly interpreted of not marrying two sisters; for that was already prohibited by analogy in the 16th verse: And the reason, that *the first be not vexed by that marriage*, has place as much in the case of two strangers as two sisters. Hannah and Peninnah, wives of Elkanah, were not sisters, and yet Hannah was so provoked by her rival that she wept, and could not sleep.—1 Sam. i. 2-7. Thus, also, Malachi exclaims, that he acted perfidiously with the wife of his youth, not who added a sister to his former wife, but any other woman: 'For hath not God made one, although the residue of the Spirit was his'—ch. ii. 14, 15—by which very place Calvin teaches the rejection of polygamy, because it was a less tolerable condition to have a concubine and rival, than that she should

be rejected. It makes no difference if any one read—*one sister to another*; which reading seems to have been imposed by Israelites. For by the Hebrew mode of speaking, all women are called sisters, and men brothers; or that they acknowledged Abraham as their common father, or that that word was a mark of honour and affection. Hence the assumption of one woman to another is prohibited, while the former lives.—Chap. xviii. 18. But God had already before prohibited by analogy—xviii. 16—to marry the sister of a deceased sister; therefore, that that should be here said to be again conceded, Moses must be understood of not marrying two wives at once. But this corruption and violation of sacred matrimony obtained even among pious men, although it seems to have been less frequent and less honourable after the Babylonish captivity. The Son of God, *the best interpreter of the law*, declared that God loved and willed monogamy alone.* He then goes on to show that a polygamist was necessarily an adulterer.* I have quoted this passage, not so much for the general argument, as to show—as many other facts have shown already—that the marginal rendering of our Bible was not peculiar to our translators; and when we find it adopted and approved by the most learned men of Europe, not in individual cases, but in whole classes of eminent men, both lawyers and divines, as well as scholars and critics, we shall, perhaps, be disposed to think, after all that has been adduced in our pages, that the sneers of letter-writers, whether great or small, will affect them very little.†

* Brouwer De Jure Connubiorum, cap. 5, sec. 16, 17.

† An article on the Marriage Question occurs in the *Edinburgh Review* for April 1853. It will not raise the opinion of the writers of it very high in the estimation of any one competent to understand what is a fair discussion of this question. It sets out by a pompous heralding of the letter of Lord Denman to Lord Brougham, which latter learned Lord, by the way, gave his opinion in the discussion in the House of Lords, as did also Lord Campbell, against such marriages. The reviewer then frankly confesses that he does not think Lord Denman adds anything to the argument, as most certainly he does not, but he rejoices in his letter solely because his name will have all the weight of a judicial decision. The weight that is due to Lord Denman on the question has already been tested. A large portion of the article is taken up in declaiming against the alleged inconsistencies of the law of England on the subject. Even Mr Binney, who is no lawyer certainly, and, as we have shown, not a very sound divine, is quoted on this point. It then takes up the usual common-places about the early church and canon law (with which we have dealt already), asserting—how truly the reader can now judge—the practice of the Greeks and Romans, Mahometans, Jews, Protestants of the Continent and of America to be on their side, without one word of qualification or of proof. It then gives the usual standing assertions which we find in the tracts and fly-leaves of the London Association, and imitates them so closely in concealing *all mention of the very names of any writers or authorities on the other side*, that it is difficult to believe that the article is not written by one of that unscrupulous fraternity. Its statements are disproved repeatedly in these pages. It is altogether unworthy, not to say of the best days of the *Edinburgh Review*, but of any reviewer professing to give even the most partial review of both sides of a question.

Our readers can now judge of the weight due to their opinion, when, after enumerating several pamphlets, all on their own side, they very coolly add,—“To these may be added two remarkably able pamphlets (!!)—one by the Rev. Dr Eadie, of the United Presbyterian Church, and the other by an ‘Elder of the Free Church,’ who, even without Dr Chalmers, and Dr Eadie, to whose authority he appeals, seems quite able to champion his own cause!” However much the so-called “Free Church Elder” may be flattered by such a notice in the *Edinburgh Review*, it may be fairly doubted if Dr Eadie himself will now be greatly delighted with a reference to his name in such a connection.

I may add here what Dr Eadie himself is reported to have stated, curiously enough, at the meeting of the United Presbyterian Synod in April 1853, the very month in which the *Review* was published. In a case previously referred to in our pages, in an appeal taken from a judgment in his Presbytery, sustaining the sentence of one of the inferior courts, refusing church privileges to a woman who had married her husband's brother, Dr Eadie is reported to have spoken as follows:—

“Dr Eadie spoke on the part of the Glasgow Presbytery, and said that Mrs Mather's

It may be worth while to add here an extract from Calvin's commentary on Malachi ii. 14-17. After giving at length the opinion that Samuel Clarke seems to have followed, he adds—"He (the prophet) then draws this conclusion, Therefore *watch ye over your spirit*; that is, 'take heed lest any should deceive the wife of his covenant.' After having shown how perversely those violated the marriage vow who rushed into polygamy, he here counsels and exhorts them; and this is the best mode of teaching—to show, first, what is right and lawful, and then to add exhortations. The prophet then endeavoured first to convince the Jews that they were guilty of a nefarious crime, for otherwise his exhortation would not have been received, as they would have always a ready objection, 'It is lawful for us to do so, for we follow the example of our father Abraham; and further, this has been permitted for a long time, and God would have never suffered it, were it wrong, to prevail for so many ages among the people: it hence follows that thou condemnest what is lawful.' It was necessary, in the first place, to remove all these false pretences. Then follows the exhortation in its proper order, '*watch over your spirit*;' for he speaks of what has been, as it were, sufficiently proved. It now follows, ver. 16—'For the Lord, the God of Israel, that he hateth putting away; for one covereth violence with his garment, saith the Lord of hosts; therefore take heed to your spirit that ye deal not treacherously.' Here again the prophet exaggerates the crime which the priests regarded as nothing;* for he says that they sinned more grievously than if they had repudiated their wives. We indeed know that repudiation, properly speaking, HAD NEVER BEEN ALLOWED BY GOD; for though it was not punished under the law, yet it was not permitted. . . . But if a comparison be made, Malachi says that it is a lighter crime to dismiss a wife than to marry many wives. We hence learn how abominable polygamy was in the sight of God. I do not consider polygamy to be what the foolish Papists have made it, who call not those polygamists who have many wives at the same time, but those who marry another when the former one is dead. This is gross ignorance. Polygamy, properly so called, is when a person takes many wives, as it was commonly done in the East; and those nations, we know, have always been libidinous, and never observed the marriage vow. As, then, their lasciviousness was so great that they were like brute beasts, every one married several wives; and this abuse continues at this day among the Turks, and the Persians, and other nations. Here, however, where God compares polygamy with divorce, he says that polygamy is the worse and more detestable crime." He then goes on to show, in indignant and energetic phrase, that it is a crime composed of adultery, cruelty, deceit, and treachery; and that Malachi denounces it as such. Where, then, it may be asked, is the proof that, in the time between Moses and Christ, polygamy was lawful? Here it is denounced as a crime by Malachi.

I may remark here that, on the principle of those who assert that poly-

reasons of appeal consisted of a downright plagiarism from an anonymous pamphlet written on another subject by a gentleman who called himself a member of the Free Church. This marriage was not in accordance with the civil law of Scotland. Dr Lindsay had clearly shown that it was opposed to the Westminster Confession of Faith; and as that Confession of Faith was embodied in an Act of Parliament, it was homologated by the civil law of Scotland, the latter being therefore opposed to marriages such as that in question. He would only occupy their time very shortly in endeavouring to show that the Confession of Faith was a correct and faithful exposition of the Mosaic law upon this point.

* It is not surprising that some modern priests should do the same.

gamy was lawful, a man had no great need to put away one wife to get another; because he might have had them both. But because he knew that two were unlawful, he wished to get quit of the first to get at a second.

If any one will read Hume's short and vigorous Essay on Polygamy,* and the picture he gives of its brutalising, disgusting, and cruel effects, he will blush to own the doctrine that God himself ever sanctioned a system so abominable; and will find that the reputed atheist rebukes some Christian moralists.†

If I have succeeded in proving that polygamy was never held lawful in the sight of God, but was a violation of his law in every case in which it occurred, then what has been called by Dr Robinson "the historical difficulty" to the reception of the marginal reading in our Bibles has been removed also. It is too much to assume that because polygamy existed even in the case of men, whom God of his grace highly favoured, therefore it could not be forbidden in Lev. xviii. 18.

CHAPTER IV.

THE EFFECTS OF THE OPPOSITE OPINIONS.

If there be force in the preceding arguments, and the illustrations adduced in their support, to prove the unlawfulness in the sight of God of marriage with the sister of a deceased wife, it may be expected that they will receive confirmation from a brief consideration of the effects of the opposite opinions, both in relaxing the law on the subject in question, and in publicly declaring, either by the law of the state or of the church, that such marriages are no longer to be considered unlawful in the sight of God or man.

There are two aspects in which these effects may be contemplated. One, the effects on the *principles* of religion and morals. Another, the effects, actual or probable, on social morality and social peace, happiness, and safety.

* Hume's Essays, vol. iii.

† The following passage from a modern writer throws some light on the effects of polygamy:—"The Affghans generally think nothing of the death of a wife. When my husband was in Affghanistan, he was several times asked, 'Are you married?' 'No; my wife is dead.' 'We hear you are very sorry when your wives die; did you weep?' 'Yes, I did.' Whereupon they were struck dumb with astonishment that any one could feel the death of a wife so strongly. 'Why should we grieve?' said they, 'there are plenty of others;' and yet these are men of warm feelings, capable of strong attachments and sympathy; but this only makes the fact more evident, that any violation of the law written in the hearts of all, or of the arrangements of the Creator, to say nothing of his revealed laws, brings with it its own punishment. Polygamy has destroyed every thing like domestic and family ties. Sometimes nature reasserts her right, and produces strong attachment between husband and wife, brother and brother—but this is the exception; and that this state of things is produced by polygamy, and not merely by ignorance of true religion, is proved by the example of the ancient Romans during the period when divorce was unknown, and when the wife, being the sole and lifelong partner of her husband, gave him not only a help-meet, but a home and domestic hearth,—ideas unknown to Mahometans. There must be a *mater familias* before true family ties can exist."—*Life in the Mission, the Camp, and the Zenana*.

Section I.—Effects of opposite opinions on the principles of Religion and Morals.

In regard to the first of these, viz., the effects of the opposite opinions on the *principles* of religion and morals, no one can have looked into the writings, speeches, and arguments of the advocates of the lawfulness of such marriages without being struck with the opposite and inconsistent grounds on which they endeavour to base their arguments and reach their conclusions, and with what reckless disregard of the effects of such inconsistencies the hired agents of the parties seeking a change in the present opinions and laws of the church and state in Great Britain pursue their end. Judging by their conduct, they seem to care little for anything else than its attainment. Many of them seem only anxious to exhibit the proofs of their zeal and success, so that they may earn their reward from their employers. It is impossible not to reflect with severity on the facility with which many ministers of the gospel give their names and opinions to serve them, when it is plain to every man who has studied the question that they are utterly incompetent to give any intelligent decision on the subject.

Mr Dwight gives the following graphic description of the inconsistencies of American writers. It is every whit as applicable to writers in this country:—

“The most natural and obvious mode of conducting this discussion would be simply to ascertain what marriages are pronounced incestuous by the Scriptures. This course I would gladly take, were it possible; but those who advocate innovations on the ancient law of incest have supported their scheme by very different arguments. Some of them contend that the incest prohibited in the Scriptures is merely incestuous fornication or adultery, and that no marriage can be incestuous; others, that consanguinity is the sole scriptural ground of incest, and that it cannot exist in any case of mere affinity; others, that the Levitical prohibitions were intended merely to preserve the natural supremacy of the husband; others, that the Levitical law prohibits marriage with certain women while they are the wives of other men, but not after they become widows; others, that the law of incest was either merely ceremonial, or merely the national law of Israel, and in neither case binding on us; others, that incest is merely a positive offence, and therefore not a crime in its own nature; others, that we are subject to no law of incest whatever, but that all marriages are lawful; others, that marriage with a wife’s sister is authorised in the Scriptures, and is in itself particularly proper; and others, that it is in vain to amend the laws of any one state, and leave those of the other states as they are.”

It is obviously impossible for the great proportion of ordinary minds to peruse the documents of the London Society, which seeks its ends by all these ways of argumentation, without having their beliefs utterly unsettled on the most important principles of Bible truth and authority, and on the most essential principles of civil government and social purity and peace. They are labouring hard to unsettle the belief and confidence of the people in the authoritative obligation of any principles or laws relating to the intercourse of the sexes at all; and such questions as the lawfulness of polygamy, and of the grossest incestuous connections, are being tossed into their

crucible, and resolved on such principles as to leave it in doubt, at least, if the hideous crimes enumerated in the first chapter of the Epistle to the Romans be crimes at all. We know that with human beings, whom all heathenism shows, by the corruption of human nature, to be little better, when without God's law, than brute beasts, to doubt, in matters where brutal passion drives them on, is absolute destruction. The astonishing thing is that society in Great Britain does not raise a storm of indignation against men advocating the principles we have had occasion to review. Popery, as it has always done, has grievously injured the truth and law of God by its unauthorised additions; and infidelity swings to the opposite extreme. The question at issue in this controversy we believe to be the turning-point between unauthorised prohibitions on the one hand, and licentious indulgence on the other. There are certain things which the Jewish writers style *premunimenta*, or outposts of the law, on this subject. The question in debate we believe to be one of the *munimenta*,—a part and parcel of the citadel itself. Much as we dread the fatal effects, practically, of legalising the marriages in question, we dread infinitely more the fatal consequences of the *principles* by which such an issue is sought to be attained. The principles of the Libertarians go to the subversion of all the barriers set up by the law of God to deter men from abominations that have ever been at once the cause and the effect of debasing the understanding, corrupting the heart, and exciting the ferocity of humanity—in a word, destroying man, both soul and body, and filling society, not only with impurity, but cruelty and bloodshed. I believe that the Libertarians cannot maintain their argument without totally setting aside Scripture altogether, as containing any law on the matters of incest, polygamy, and kindred abominations; or, what is infinitely worse, establishing an universal system of unbridled lust on Scripture authority. Mr Binney and others may talk as they please of the “holy and purified instincts of Christianity,” or of “the present condition of English society,” or “modern delicacy;” but the floods of human passion, even in the breasts of Englishmen, if we are to believe themselves, and to judge from their crimes of the deepest dye, will not be rolled back by any such trashy sentimentalism. Whatever be the present tone of English society—and every one knows it needs all its elevation—it owes all to very different principles than those of such an Antinomian Neologico-Puseyite character as are maintained by such writers as Mr Binney.

I believe—and any one who will attentively peruse their writings must see—1. That the principles of the Libertarians subvert the Old Testament as a rule of faith and manners altogether, and, by consequence, the New also. Their common mode of speaking of Moses, as legislating, as any mere human legislator, on practices and principles peculiar to orientals and special classes and nations, at the very time that God speaks in his own name, and that, too, in regard to those relations of human society that are permanent and universal, evidently reduces the Word of God to the level of an ordinary code of principles and morals of no higher authority than the laws of Menu, Zoroaster, or Mahomet.

2. They argue the question on principles that are subversive, not only of the Old Testament, as being of any divine authority to bind the consciences of Christians, but on principles that are subversive of the moral law, and thus of all social morality. Here I refer not merely to such Antinomian principles as those of Mr Binney, which declare that the Christian is not under law to God, but is to be left to the direction of his own

inner life, or "purified instincts;" but to the fact that they set aside the plain, undeniable original law of God, as declared by our Lord himself, by pleading the examples of those who, at the best, were fallible and sinful men, and were themselves, as much as any other man, only debtors to the grace of God, and the righteousness which is by faith, for being delivered from the wrath to come.

3. By arguing that the law of the levirate, Deut. xxv. 5-10, is universally applicable, or, which is the same thing, involves a principle that is universally applicable,—viz., that what God permitted and enjoined in that case cannot be sin in any other case,—they maintain a principle which is as applicable to the immediate descendants of our first parents as to that of the levirate, and that teaches, as Maimonides says, "many incests,"—even an endless succession of them.

4. By teaching that polygamy had no sin in it, but was permitted and sanctioned by God in ancient times, then, on their own principle, that God would not permit or sanction anything sinful, they teach that polygamy is not sinful, or contrary to the divine will now; and it will not be easy to see how they who believe and teach such a doctrine will not be polygamists, so soon as it suits themselves, and the laws and customs of the country where they happen to dwell will permit. Nay, as polygamy is legalised in Eastern lands, there is nothing to prevent men of wealth going there to marry several wives, as they now do contrary to law, in the case of a sister-in-law.

5. On the principle that in these respects men have rights and privileges above women for some mysterious reasons, at which Dr Eadie, Mr Binney, and others hint, but ordinary men cannot discover, they degrade woman into the position of a Turkish slave of the harem, the effects of which it would not be very pleasant for Christian men to describe.

6. Many of them directly teach—and the whole of the agitators for the repeal of the present law of marriage avail themselves of those teachers and their teaching to effect their ends—that the Bible has no laws against incestuous marriages. Nothing is wanting, therefore, to sanction, and ultimately to legalise, the most abominable incestuous marriages of the heathen, but the frequency of the practice of them.

7. By encouraging men and women to break the law of their country, at the instigation of passion or personal convenience, and without any moral obligation to constrain them, on the pretence or even belief that there is no law of God to prohibit such marriages, they are subverting the obligation of law and government, as an ordinance which God hath ordained for his own glory and the good of man; and all who aid and abet in such a cause are highly guilty before God.

8. By searching out, by means of a regularly organised and well-paid agency, cases of such marriages in the lowest and most degraded classes of the community, and parading them as necessities of society, they destroy natural modesty, outrage common decency, and actually confer a bounty on such parties to publish their shame. Let a bounty be offered to men and women to make known their shame, not only with impunity, but with an air of virtuous freedom, and the lists of crimes and criminals will soon be extended enough.

9. By pleading the number of parties who have brought themselves into distress and difficulties by breaking the law, and then asserting the badness of the law, because it is so frequently broken, and evil consequences have accrued to its violators, they furnish a plea that is as good for sanctioning

fornication and adultery, and every other crime, as for sanctioning the marriages in question. The same agencies, with the same means, and among the same parties, can easily supply the legislature with a greater number of cases of the former than of the latter sort.

Conscientiously holding these views, and believing that the preceding discussion fully warrants them, I cannot but hold the principles by which these men seek to gain their end to be most perilous, unchristian, immoral, and debasing, and therefore to be detested and strenuously resisted.

Section II.—Effects actual or probable of Legalising such Marriages.

There is another aspect in which the effects of legalising the marriages in question may be viewed,—viz., as actual or probable,—on social morality and domestic peace, happiness, and safety.

It is a well-known fact, exhibited in many frightful instances in the Bible, recognised even as a principle of law in modern times, verified in the history of mankind, and awfully demonstrated in the records of criminal courts, that cruelty and lust, impurity and bloodshed, are fearfully allied. Every thing that tends to break down the just and reasonable barriers which God has raised to restrain the gratification of impure passions, is not only a restraint and check upon impurity, but upon cruelty and violence. Every one who can read and observe, knows what multitudes of murders and acts of violence are the fruit of impure passions, and the danger, consequently, of diminishing the horror of their indulgence. To go no farther, look at the cases of Rush and the Mannings in England, Kirwan in Ireland, and the late Glasgow murders in Scotland.*

One, among many others, of the wise, and holy, and beneficent ends of the prohibitions of marriage within certain degrees, is to extend, as many writers, both Jewish and Christian, have well observed, the blessings of family friendships and alliances. The delightful enjoyment of paternal and fraternal intercourse reproduced, and descending and extended in the relations of uncles and nieces, aunts and nephews, brothers and sisters-in-law, is one of the greatest elements of human happiness. Let the present law be altered, and one or other, or both of two things will inevitably happen, to an extent we little dream of at present. Either this intercourse will instantly be chilled by the necessity and propriety of the caution and reserve that do, and which all men, especially *parents*, feel ought, to regulate the intercourse of the sexes in well-ordered and virtuous societies. Or, from the very familiarity of intercourse, and strength of endearment which such relations imply, those crimes which are of too frequent occurrence already, where such facilities are afforded, if once they lose the character of incest, will become frightfully common. Jealousies on the one hand, and intrigues and seductions on the other, will follow in their train. Happy it is that in this country at least we have not a great stock of actual facts to make out our case. It is not so much a case for argument, as it is a case to be left to the personal experience and sense of propriety of every one in a position to form a judgment. I believe that it could be made out, could we get access to the actual facts, that in almost every one of the cases where marriage has ensued between a man and the sister of his deceased wife, the attachment has been formed, and the arrangement contemplated, before the first wife was removed from the stage of time.

* The history of Nunneries furnishes an illustration of the same terrible truth.

In every such case, according to the law of Christ (Matt. v. 27, 28), adultery has been committed.

The following statement, in a summary given in the *Princeton Review* of the argument on this subject, in the Presbyterian General Assembly of America, in 1842, is most forcible and just:—"It is needless to argue a point which is universally conceded (viz., the danger of certain intimacies and familiarities). Then the only question is, whether the intercourse between a man and his sister-in-law is of the kind just specified? As a general rule, it is so in fact, it is so in right, and in a multitude of cases it is so of necessity. He calls her sister; she calls him brother. He is her brother IN LAW, that is, in the sight of the law of God and man. They are near relations; their interests, their affections, their friendships, are all complicated in one inextricable web. She feels that she has a right to his affection and protection; she cannot help loving him as the husband of her sister; she has a right to a sister's place in his family, for marriage does not dissolve her relationship to his wife, who is still her sister, with whom she is entitled to all a sister's intercourse and fellowship. You cannot, therefore, place her in the position of a stranger, and you have no right to do it if you could. She is a near relative, and must be regarded and treated as such. Is she, then, to have all the rights and privileges of a sister, without a sister's protection? Is she to be a sister in all relations but one, and as to that one a stranger? This is, in the first place, impossible; and in the second place, if possible, in the highest degree dangerous. . . . It is the universal conviction of men, everywhere manifested by their practice, that it is a temptation for any man to associate with any woman whom he may marry, as he associates with his own sister. We hold, therefore, it is clear that to allow a man to marry his sister-in-law is inconsistent with the conjugal connection. The intercourse which it authorises and necessitates is incompatible with domestic purity, if marriage is allowable. To sanction such connections must lead to loss of confidence in families; to breaking up some of the most sacred relationships of life; and to casting upon the world those who have a right to an asylum in the house of a sister."

The pretended advantages of such unions are nothing, compared with their manifold evils and dangers. In the first place, the only possible advantage of it is, that it secures the presence of an aunt in the family, in the shape of a wife and stepmother; in other words, prevents her marriage to another man, or the marriage of the man to another woman. In the first place, this is not necessarily a benefit to her. Moreover, the whole argument proceeds on the assumption, that to accommodate a widower and his children, the interests of a sister are little to be regarded; that the man is every thing, and the woman nothing but the instrument of his convenience and gratification. A widower is not necessarily the best husband. But in the second place, even if a sister-in-law does remain an unmarried aunt, experience shows and proves that she will be unspeakably more affectionate to the children of her sister, than she will prove in the character of a stepmother, who has children of her own; and when a state of confusion of relationships in the family ensues,—the very mention of which is loathsome and disgusting to others, while it is most fitted to produce mutual dislike in the bosom of the parties concerned. But again, many of those who contend for the lawfulness of such a marriage, admit the binding obligation of the prohibition (Lev. xviii. 16) of a man marrying

his brother's widow. Why? Surely the children of a widow woman, as well as herself, have as much need of the protection of their father's and husband's brother, in the shape of a stepfather, as the brother has of a nurse to his children, in the shape of a stepmother. One would say, greatly more. But these men, though very earnest for the rights of men, seem not to be very anxious about the rights, or dignity, or happiness of women, except when they are about to die.

But once more, the pretended advantage of such marriages can only, as a general rule, be obtained by holding out to a sister-in-law such a prospect, and so corrupting her, and making her sister miserable, or getting her out of the way. For surely it will not be pretended that wherever a man is in need of such a helpmate, a sister-in-law must always be provided, and ready at the proper moment, to undertake the task of marrying the man and nursing his children. The truth is, the cases are comparatively few in which such an arrangement is either likely to take place, or can take place, at all, making the danger of antecedent corruption to effect the end more probable, by anticipatory improper conduct in the parties. In the case of most families, before the death of the one married sister is likely to happen, her other sister or sisters are themselves married; and the whole pleading is not a pleading in behalf of the normal wants or necessities of society, but a pleading in behalf of the few parties whose irregular passions have first plunged them into sin, and consequently into difficulty. The difficulty is not felt, but the thing is abhorred, for instance, in Scotland and Ireland. The whole plea is therefore as absurd as it is untrue. A necessity not felt in Scotland and Ireland, in such a case, is not a difficulty incident to the nature of society at all; but a factitious result of immoral license, and a necessity which all crime soon creates for itself. Let the opinions of the Libertarians progress in Scotland, and we shall speedily have much virtuous pleading for innocent children and disconsolate widowers of which at present we hear nothing.

Section III.—Actual effects of Legalising such Marriages.

I have said above that providentially we, in Scotland, have not statistical facts to make out our case in regard to the actual evils of such connections. The writer, however, does know of several cases, regarding which, he believes, it could be proved, if sifted in a civil, criminal, or ecclesiastical court, that the parties had formed their attachment, to the scandal of morality, before the death of the first wife. And if such marriages were legalised, the cases would be numerous enough. At present they are abhorred. A case of a woman marrying her husband's brother was lately brought before the Church Courts of one of the Presbyterian bodies of Scotland, with a boldness of which, if it had been, or may yet prove, successful, no one can tell the mischievous consequences. But society marked it so strongly that I have been told the parties were shunned in the ordinary dealings of business. Let the *law* be altered, and, considering the corruption of humanity, the *case* would, no doubt, be altered also. The effects in America are fearful to contemplate. Mr Dwight, who is not a theologian, be it remembered, but a lawyer, says—

“A few individuals, also, possessing minds more enlightened, and a morality more elevated, have given to the marriage in question the authority of their example. A few have thrown around it ‘the sanctity of their

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lawn ;' a few have enveloped it in 'the purity of their ermine.' Some of these, doubtless, have done it ignorantly or hastily ; while others have first investigated its lawfulness and then have hesitatingly ventured. But the investigation has usually been commenced because the affections were fastened and the purpose formed ; and of course has been pursued with less exemption from prepossession and bias, than truth and fair play would seem to require. The cool logic of the intellect is at best a feeble advocate when opposed by the warm rhetoric of the affections. While the head is umpire, reason and argument will usually carry the day ; but when the heart is on the bench, a single impulse will put to flight a whole army of syllogisms. Still, decisions made in such a forum are not to be regarded as precedents, or as entitled to all that authority which is allowed to adjudged cases in our courts of law.

"A few of the more enlightened, also, have, without this personal bias, arrived at the same conclusion. Some in this, as in all other cases of mere morality, unconnected with loss and gain, have, without examination, taken the popular side of the question. Others, resolving to throw off the shackles of prejudice and prescription, and aided by the writings of unprincipled Europeans, have adopted loose and licentious notions respecting marriage. Among these notions are the following :—that marriage is not an institution of God, but a mere creature of municipal law ; that the marriage-contract is merely a civil contract, liable, like every other contract, to be varied, dissolved, and renewed, at the pleasure of the parties ; and that, in enacting laws respecting it, the legislature is not bound to regard the law of God at all, but merely its own views of the good of the State.

"The effect of these innovations on the law of incest has been, to unsettle the minds of the community on the whole subject, to introduce a loose and vague scepticism with regard to the guilt of incest in all cases whatsoever, and to leave a painful uncertainty as to the actual extent of the alterations to which the original law has been subjected. The people at large rarely consult the statute-book. Few of them, so far as my observation extends, appear to be aware, that inroads have been made upon the law of incest by a legislative act ; yet, perceiving that marriages are actually celebrated which are among those prohibited at the end of the Old Testament, they conclude that the law of incest has grown obsolete. Knowing propinquity* to be the only ground and rule of incest, they naturally place all marriages where the degree of propinquity is the same on a level. The consequence has been, that marriages still pronounced incestuous by the statute-book have been extensively contracted. The parties have thus ignorantly exposed themselves to an infamous punishment, and their children to the loss of their inheritance, and to a disgraceful epithet, under circumstances peculiarly humbling and painful. I have known two instances of marriage between an uncle and niece, and have heard of one between a half-brother and sister. So general, however, is the impression, that this uncertainty is fairly attributable to the legislature, and to the zig-zag plight of the statutes, that incest passes unmolested and unnoticed. Not less general perhaps is the impression, that incest, except between lineal relations, cannot be prosecuted to effect. These facts should teach us to 'leave off' the revival of the law of God, 'before it be meddled with.'"

Another clear-headed writer, in the *American Christian Expositor*, for

* "By the word propinquity is intended nearness in general ; by affinity, nearness by marriage ; and by consanguinity, nearness by blood."

May 1832, in a letter to a friend, who seemed about to enter into such a relation, after a most able, though concise Scripture argument against it, says—

“I have personally known many men and women, professing Christianity, who lived in the violation of the law in Leviticus, holding that it (the law of Leviticus) was not moral, or if moral, did not apply to their favourite connection. I have known a man to live in connection, successively, with several sisters. I have known a man to act as a husband to his niece, another to have his own sister, and another to have two wives at a time, all pleading innocence from the law. Yes, we know that one, not very far off, has recently been convicted of *incest* with his own daughter. And yet this last, this horrid connection, cannot be condemned on the principles of your essay now before me. It is necessary to consider the Levitical statute as moral, and the prohibitions convertible, in order to make it criminal in a man to uncover the nakedness of his own daughter.

“I have myself heard marriage with a daughter recommended, as was alleged, on humane and Christian grounds. This is the most opportune and convenient connection; it best preserves the identity, the property, and the peace of the family; the parties best know one another; there is not a drop of the father's blood to be found in the veins of a marriageable daughter; their union is not prohibited, except by inference, in the law of Leviticus, and if it were, that law is positive, not moral; the relation is not nearer than was Adam's to Eve; and the tender affections of a daughter and a sister secure to the parent and to the children the best attentions. This is not unlike the plea for marriage with the sister of a deceased wife.

“It appears to me, therefore, that the Church has done well in prohibiting all such connections as incestuous; and I tremble for my country because of its want of that moral sensibility which contemplates incest only with horror.”

Lord Denman, in his letter to Lord Brougham, has asserted, as we have seen, that there are no denunciations against such marriages in the prophets. The irrelevancy of such a statement has been already pointed out. But there are no more severe and alarming denunciations in the Bible than those against lewdness. We have many examples in Ezekiel, and they are in such connection as to show that lewdness and bloodshedding are closely allied. Let any one read the twenty-second chapter with this view, and the following passage in particular, ver. 9-12 :—“In thee are men that carry tales to shed blood; and in thee they eat upon the mountains; in the midst of thee they commit lewdness; in thee have they discovered their father's nakedness; in thee have they humbled her that was set apart for pollution. And one hath committed abomination with his neighbour's wife; and another hath lewdly defiled his daughter-in-law; and another in thee hath humbled his sister, his father's daughter. In thee have they taken gifts to shed blood; thou hast taken usury and increase, and thou hast greedily gained of thy neighbours by extortion, and hast forgotten me, saith the Lord God.” In the two succeeding chapters, as well as in this, terrible judgments are denounced against Israel and Judah for their lewdness and cruelty. It seems to be of the very nature of lewdness to render men ferocious and cruel like savage beasts.

Well may we tremble at the unscrupulous efforts made in Great Britain to bring about a state of feeling among us similar to that of America; efforts stimulated by the difficulties of men who, in obedience to their pas-

sions, have violated the law of their country, and so, as there is no reason of conscience to plead, the law of God also; and, having large temporal possessions at stake, are anxious for a change of the law. They are willingly served by the hirelings who, unhappily in too great numbers, are ready for "filthy lucre" to undertake the advocacy of any cause, however degrading and corrupt, and are aided and abetted by many of whom better things might be expected, who give the influence of their names to any cause that has an air of liberality about it, no matter how incompetent soever they are to give an opinion, from actual knowledge or examination of the subject.

I have no manner of doubt that the frightful licentiousness prevalent in the various states of the Continent may be traced, in great measure, to the prevalence of infidel, pantheistical views of morality—views which confound all distinctions of human kind—nay, virtually confound the distinctions even between man and beast. Let them progress, and I say again there is nothing to prevent the atrocious brutalities of heathenism described in Rom. i. to be renewed openly on the face of the earth, and "before the sun." I wonder that the Libertarians are not ashamed to quote in their favour the example of such a state of things as prevails in Prussia, with the facts already stated, especially in the speech of the Bishop of Exeter in the House of Lords, and hitherto uncontradicted,—that in Prussia, with a population inferior to that of England and Wales, exclusive of Scotland, they had, in three years, no less than 7800 divorces, that is, no less than 2300 in each year. The actual cases of crime must have been vastly more numerous than those thus proved and known. Many of these must have been cases of infidelity in the parties to one another, and doubtless directly traceable to this relaxation of the law, and consequently of the tone of public feeling, in regard to the marriages now under discussion. Well might the Bishop of Exeter ask their Lordships in the House of Peers, as he did after stating these facts, "Now, what would they say if the same thing took place in England? Were they prepared to adopt that state of things? And they must be prepared to adopt it, if they sanctioned the bill which was then before the house; for they must not suppose that they would be able to stop when the bill stopped. (Hear, hear.)" * Lord Campbell pronounced the Bishop's speech to be "unanswerable," and demonstrated the falsehood of the assertion, that the marriages in question had been lawful before the passing of Lord Lyndhurst's Act in 1835, and showed that it referred merely to one specific point of the law, the general law not being altered at all. Lord Campbell delivered opinions of great solemn-

* The author formed acquaintance with a German gentleman of the name of Weber, whom he first met in Switzerland, in the summer of the year 1828. He afterwards met the same gentleman in Dresden in the summer of 1829. Having recalled, while these sheets are passing through the press, the remembrance of a conversation held with Mr Weber in Dresden on the subject of divorce, he turns to his journal, and there is in it the following entry:—"June 25,—Mr Weber, who is in the ecclesiastical or *canon* court, which is a court of laymen, assisted by two clergymen, tells me that his department takes cognisance chiefly of matrimonial cases. He informs me that divorce is allowed on the following grounds:—

1st, *Malitiosa dissertia.*
2d, *Insidiæ vitæ structæ.*
3d, *Injuria atroces, &c.*
4th, *Adulterium.*

The population of Saxony is 1,200,000, and the yearly number of divorces is about 150 ! ** —that is to say, a number equal to nearly 400 for Scotland for one year, and for Great Britain and Ireland a number equal to 4000 in one year. What would Scotland think of such a state of things among us? And yet this is one of the examples of domestic purity and peace held up for our imitation by the Libertarians.

nity and weight against such marriages. Unwilling as I am unduly to extend this work, I cannot withhold the following extracts from the speech of one having such opportunities of judging, and who cannot be charged with theological prejudices. His Lordship denounced the agitation on this subject, begun and carried on by "those who had violated the law," and purely "for personal interest," and who, in order to obtain the support of numbers, persuaded persons to violate the law by denying its existence. Among other things, Lord Campbell said, "It had already been shown that in a great majority of instances the children must be sufferers, because in a great majority of instances they would be deprived of the tender care of an aunt, which they now enjoyed; or, in cases in which marriage was to take place between the widower and the deceased wife's sister, they must be deprived of the care and attention of that near relation, because, from that time forth, if the bill passed, it would be utterly impossible for the sister of the deceased wife to remain under the same roof with the widower. (Hear, hear). . . . Could they have the benefit of the purity of domestic life unless that connection were looked upon with abhorrence, as contrary to the law of God and the law of man? It was only by such a feeling being instilled into the mind, until it became a sort of instinct in all who came within its operation, that they could have the full benefit of that purity, peace, and happiness of domestic life which they now enjoyed. (Hear, hear). . . . It was one of the melancholy facts that, if passed, this would not be a final bill. Jealousy and alarm would be introduced into every family in England. . . . These marriages (such of them as had been contracted) had been contracted in open violation of the law, and the parties were living in a state of concubinage, and nothing better. They knew well that they were living in that state. They had defied the law; their children were illegitimate; and although the legislature had interfered to sanction what had been done in ignorance, never until now had it been proposed to render valid marriages contracted in open violation of the law."

Lord Brougham concurred in holding such marriages to be condemned by Scripture, contrary to the law of the land, and strongly condemned on grounds of expediency. The bill proposed to be passed on the occasion, to legalise such marriages, was rejected, on the second reading, by 50 to 16. This was in Feb. 1851.

In a subsequent discussion, on the presentation of a petition to the House of Lords by Lord St Germans for the London Association, both Lords Lyndhurst and Campbell declared—contrary to the unceasing and unblushing assertions of interested parties, and these even repeated in the article of the *Edinburgh Review* for April 1853, and on the authority of Mr Binney—that the law of England on the lawfulness of such marriages, as to the degrees prohibited, was the very same before the passing of Lord Lyndhurst's Bill that it is now. Lord Campbell took occasion to give the following most important opinion in regard to parties who went abroad to marry and evade the law, not being domiciled abroad:—"Such parties were English subjects, and England had a right to judge their acts all over the world. This country could not deal with the acts of foreigners without its territory, but it might with the acts of foreigners within its territory, and with the acts of its own subjects all over the globe; and the law which existed here against incestuous marriages would, in the case of British subjects, render these marriages void wherever they were con-

tracted." He cautioned all persons against going into foreign countries with the idea of evading the law of England.

It is impossible to mark with too severe condemnation the disgraceful conduct of parties who take upon them, by every possible plan and influence, to persuade men and women to enter into this relation, by administering encouragement to indulge their passions, or, if you will, their affections, at so serious risks, social and moral, to themselves and others, by falsifying the law, or even rendering it doubtful; and this, too, for the base purpose of multiplying cases to concuss the legislature into a change of the law. The country and the cause of religion and morality owe much to such a man as Lord Campbell, who, as a peer and a judge, employs his high position to administer the rebuke and warning which such proceedings merit.

It is impossible, in a work of this kind, to pass by without a few remarks the "First Report of the Commissioners appointed to inquire into the State and Operation of the Law of Marriage," &c., in this country, in 1847.

Of this Report, the Bishop of Exeter, in his able speech in the House of Lords already referred to, said:—"So far as related to the individuals who composed the Commission, he (the Bishop of Exeter) never saw a report more entitled to respect; but would not admit that the contents of that report were equally entitled to respect. Nay, he would say, that so far as the contents of that report were concerned, he had never seen one more totally unworthy of respect. He did not charge those persons of high character who composed the Commission with purposed unfairness. Of that he believed them incapable; but he would say that they had allowed their prepossessions to influence the whole tone of their report. He had shown one instance of the partiality of these Commissioners;—here was another. The Report said, 'We find the evidence that marriages of this kind are permitted in nearly all the Continental States of Europe.' Now, he was sorry to be obliged to remark, that they not only introduced into their report everything favourable to their preconceived views, but that in making this assertion, they had said something of the States of Switzerland in direct contradiction to their own evidence. One of their witnesses said, that *of the twenty-two cantons of Switzerland, there was only one where he knew of these marriages being permitted.*"* But this is not

* In regard to Switzerland, the Commissioners report as follows:—"Protestant states on the Continent of Europe, with the exception of *some of the cantons of Switzerland*, permit these marriages to be solemnised by dispensation or license under ecclesiastical or civil authority." Now, the fact regarding Switzerland is stated by A. Bach, Esq., a German juriconsult practising in this country, and one of their own witnesses. He transmitted an extract of a letter from a professional friend in Lausanne, which is given in the Appendix to the Report, as follows:—"I believe I may say with certainty, that the law *only of one canton*, that of Neuchâtel, permits marriage with a deceased wife's sister, which canton is a principality of the crown of Prussia. I believe in all the other cantons such marriages are prohibited. No doubt such is the law in the Canton de Vaud and the Canton de Geneva. No dispensation can be granted."

In the body of Mr Bach's evidence there is the following curious statement:—"981. In the kingdom of Hanover, an uncle cannot marry his niece; 982, in some parts of Germany he can? In some parts he can. In Prussia such a marriage is permitted; but marriage with an aunt older in years is only permitted under a dispensation on very special grounds; but it is not easily granted. It is, however, an infringement upon the divine precepts; it is a permissive law, bad in its nature, which I would not hold up as an example."

"An infringement on the divine precepts" does not startle the Prussians. What is the value of their example? Their "dispensation" is only proof that they knowingly violate the law of God. Mr Bach states that popular feeling is not unfavourable to such marriages on the Continent,—yet adds, "they are of rare occurrence." Why? I presume

all—Russia was ignored in the report, except in an after allusion to that country in connection with the Greek Church.” The Bishop deals with more of it in the same slashing way.

Any one who has perused this Report knows that the Bishop has not applied too strong language in its condemnation. The character of the evidence on so grave a subject is, in many instances, most discreditable. Even in the cases where one would have expected the greatest caution, there is very unwarrantable rashness. Grave divines, in several instances, commence their evidence by declaring that they were ignorant of the whole subject, until they had been requested to give evidence by the parties interested. In this respect, at least, their evidence proves that their “witnessing is true.” They soon prove that they do not know the very first principles on which the argument has in all ages been made to rest. Some of them, such as Dr Cox, in an easy off-handed manner, reject the whole Old Testament authority on the subject in the slump. And yet the Commissioners, unwilling to lose the benefit of Dr Cox’s name, proceed to question him as to the bearings of the particular passages of the Levitical law. After his answer, ignoring the authority of the Levitical law, the following questions and answers are curious enough :—

“ 847. That answer is given upon the presumption, as you have stated, that the Levitical law would not be binding upon Christians ; but what would be your construction of those parts of the Levitical law to which you have referred ? Do you think that the true construction of them would be held to prohibit a marriage with a deceased wife’s sister ? I should think not, according to the 25th chapter of Deuteronomy, and 5th verse, where it is enjoined !” This witness, in this *exceptional* case, destroys at one sweep the very law—Lev. xviii. 16—to which it is an exception, and an exception in one particular point only, viz.—where there was no child. But, as he declares in his next answer that he was “not aware that there was any prohibition of the kind” “in the early Christian Church,” so he may have laboured under the same happy ignorance as to Leviticus xviii. 16. Of what earthly use can evidence of this kind be in the eyes of any honest, intelligent man ?

The evidence of another witness as to the Scripture argument betrays no less ignorance of its real ground, as maintained by the Church in every age. The Rev. John Hatchard is examined :—“ 515. You have stated you are of opinion that, theologically speaking, there is no prohibition of these marriages in Holy Writ ? Yes, I say that calmly and advisedly. 516. Do you apprehend that, at an early period of Christianity, a construction was put by the Church upon any passages of Scripture, to the effect that such marriages ought not to be allowed ? Unquestionably. I believe that the general construction of the Church, and of commentators, has been in opposition to such marriages, founded on what I humbly believe to be a mistaken view of the passage in the 18th of Leviticus, and the 18th verse.”

If the actual knowledge of this gentleman had been equal to his calm-

because it is *felt* that they are wrong. Mr Bach is asked, —“ 992. What is the principle in your judgment upon which, in cases where dispensation is granted as a matter of course, it is still thought necessary to keep up the law requiring dispensation ? That is rather a difficult question.” No doubt of it. But it is instructive. There is no sound principle in it, as Mr Bach proceeds to state. It is, also, what he does not state, a proof of the remaining sense of moral wrong in the transaction. Mr Bach feels and declares that the existence of prohibitory laws gives “the stamp of moral wrong” to such marriages. Whatever be his opinion of their propriety, this is the reason of their existence, viz., that there is felt to be a moral wrong in such marriages.

ness and confidence, he would certainly not have made any such affirmation. He would have told that the opinions of the Church, and of the commentators generally, was founded on very different passages, though they held that Lev. xviii. 18 did not affect them, but strengthened their opinion. This gentleman says he has looked at the question, "in all its bearings, very seriously, very minutely, and very recently;" and yet, from beginning to end of his evidence, he never even glances at Lev. xviii. 16, or at the real grounds of the Scripture argument at all. Yet his is one of the list of "Facts and Opinions" circulated, with others equally worthless, in the fly leaves of the London Association, with the view of settling a great Scripture argument.

The evidence of the Rev. John Garbett is of a similar description. He refers only to Lev. xviii. 18; and the opinion of the "commentators," according to him, is, that there is no Scripture prohibition of such marriages. But we should never have done, if we took up all the cases of a kind as little trustworthy, which occur in this Report. Were there not such evidence as that of the Rev. Archdeacon Hale, Dr Pusey, and some others, one would be led, from some of the instances now referred to, to conclude, that the clergy in England, both Established and Dissenting, were sadly deficient in theological and literary training. By the way, one of the gross frauds practised in the publications of the London Association is, to take some incidental opinion on some one point of discussion, and then to exhibit it as *the* opinions of the parties on the very point at issue itself. Thus we have both Patrick, Archdeacon Hale, Calvin, and others dealt with; so that the ordinary reader of these fly leaves would believe them to be hollow in favour of, instead of being hollow against such marriages. In this way, no ordinary reader can possibly know the truth; and the opinions of society are thus attempted to be influenced by a system of gross Jesuitical perversion and fraud. These are strong expressions. We not only use them, however, in the language of one of their authorities, "calmly and advisedly," but we have made them good. The said Association have published no less than *fifty-one* pretended facts, and about *one hundred and eighty* alleged opinions of as many persons, and no human being could discover, from their perusal, that there are such texts as Lev. xviii. 16, and xx. 21, in existence. In only two does there seem an allusion to Leviticus xviii. 16, while the reference in one is erroneously given as Lev. xviii. 6, and the other does not refer to Lev. xviii. I have carefully looked over a publication of theirs, containing a large collection of speeches, pamphlets, opinions, and answers, by noble and learned lords, bishops, divines, and lawyers—the collection bearing on the title-page to be the "*sixth thousand*"—and I have not been able to discover a single reference to Lev. xviii. 16, or xx. 21, and yet these are the texts on which their opponents mainly rest the controversy. Nothing in "James's Corruption of Scripture, Councils, and Fathers, for maintenance of Popery," can surpass this discreditable attempt to hide and pervert the truth.

Some of the witnesses give certain critical opinions on passages of Scripture, because they cannot otherwise make these passages square with their own assumed opinions on the point. A large class of witnesses are anonymous. They are persons who have been involved by their own passions in unlawful connections; and they come forth, with most pathetic and sentimental declarations of the hardships of their condition, of the tender

requests of dying wives, and of the benefit to tender children, who, in all probability, would have been as carefully attended to without violation either of the law of the land or of the laws of God. Some of them have not even the pretence of children in the case at all. Some of these witnesses formed their connections at the advanced age of sixty! Others were arrived at the age which is called, in ordinary matters, "the age of discretion;" though there are some weighty proverbs, in Scotland at least, to excite serious doubt if there is much discretion at such an age in matters of this sort. Some formed the connection because there was a sister-in-law's fortune in the scale. Another class of witnesses are barristers and students-at-law, who, of course, had little stated employment otherwise, and were employed by parties interested in the issue to go forth over towns and districts of the country—some of them the worst of our sea-ports and manufacturing districts—to cater for cases. When cases cannot be got at directly, some of these gentlemen do their best to get hearsay evidence, by the most curious patience and humble inquiries. Some of these cases, as in one managed by Mr Brotherton, are those of persons who, when they found they could not lawfully marry, not only lived in sin, but committed atrocious crimes to conceal their shame; and such things are paraded, to the scandal of England, as proofs of the necessity of changing the law. The Rev. N. C. Jenkins gives as a proof of the same necessity the case of a man who had married "three sisters in succession." The Rev. Mr Binney (998), for the same purpose, details, with considerable eloquence, the case of a brother minister who formed an attachment to the sister of his deceased wife; and, unhappily the law of 1836 passed, inopportunistically for him, to make such marriages void to all intents and purposes, though the law held them void before, and prevented their marriage; and Mr Binney gravely advises him to evade the law of his country, and live in the teeth of it. He says:—"They cannot marry; he will not marry. He is an extremely virtuous man—extremely conscientious—morbidly so. I wanted him to go out of the country and get married, and endeavoured to bring the matter to bear in that way, but he would not do it; very properly, *perhaps*, (!) because he thought it was not right to go out of the country in order to break the laws of the country, and then to return and live in that violation." Most ministers of the gospel, it is to be hoped, think the same thing, without any "perhaps" in the case; and, moreover, will doubt the fitness of any man, who has any doubt on the subject, to give a decision on questions of moral law and social propriety. These gentlemen reason of such attachments as if they were the results of blind fate, and as if men could neither fail to form them, nor avoid the consequences if they would, and deserve the sympathy of all humane men and women. Of some hired agents of the party whom we could name, the country has by this time of day obtained knowledge enough to teach us a lesson of caution. The whole movement originated with wealthy parties, who had already violated the law, and was carried on by the agency of professional men, hired to organise and carry it out. They proceeded in regular form to stir the public mind in the usual way—first by a pamphlet, and then by the usual appropriate appliances through the press and otherwise. They tell us that they took means to secure the correctness of their statistics. Correct statistics in such a case were impossible. Mere cases of such marriages could prove nothing but their own existence. The same operations and their results,

employed in the same way, would procure evidence as good to warrant a change of the law in favour of the most abominable crimes.

The very constitution of the Commission seems to have been one-sided. The questions put run in the same general channel. One need not be surprised that the London Association has, without scruple, selected the parts of the evidence that suits themselves, without much regard to the accuracy of the allegations contained in it; and even, as in the case of Switzerland, have grossly misstated it. But there is just ground for surprise that the Commissioners themselves should have framed their final report, and given their opinion of the state of the facts, on most insufficient grounds. As, for instance, we have them gravely resting their opinion of the state of things in America on the statement of Judge Story, previously adduced in these pages. The following is the easy way in which the question about the opinions of the Jews is disposed of:—"The law and practice prevailing among the Jews on this matter," they say, "are stated with great clearness and ability in the evidence of their chief Rabbi in this country." The value of that evidence, we have seen, is not great. Though constrained to admit that the feeling of the laity in Great Britain and Ireland is against the marriages in question, they insinuate it might be different if there was "time for consideration."

Notwithstanding the elaborate attempt made in some parts of the evidence to show the great advantage of such marriages to poor men and poor children, the Report states:—"OF THE MARRIAGES THUS ASCERTAINED TO HAVE BEEN CONTRACTED, VERY FEW WERE BETWEEN PERSONS IN THE POORER CLASSES." This is most satisfactory. It proves that though the alteration of the law might be a convenience to those who will not restrain their passions, that it is an act neither of necessity nor of mercy to accommodate them. Considering the agency employed, and the efforts made through the press to pervert men's views, and to mislead in regard to the state of the law; and considering the prevalence of irreligion and immorality in many of our towns and manufacturing districts, from most culpable and criminal neglect of supplying them with the means of religious instruction, the fact is indeed surprising. Considering, farther, what human nature is, it would not be remarkable if an agency employed by a powerful and wealthy party to excite sympathy in behalf of such marriages, and to give them a colour of religion, humanity, and virtue, and to encourage their open proclamation of them to the world, should succeed in increasing their number.

The question, however, occurs,—Are the friends of religion and humanity, of social and domestic peace and purity, we will not say to be parties to an agitation for unsettling the minds of the community in a direction so dangerous,—but shall they be silent, and not condemn, in the strongest way possible, such reprehensible attempts? The following words of Mr Dwight are worthy of a religious lawyer, and will be of far more weight on the religious conscience than the reckless assertion of any Judge Story, however able a lawyer he may be:—

"These points being established, we call then distinctly on the great ecclesiastical bodies of our country, by their solemn decisions, to condemn these incestuous marriages; on the ministers of religion to bear their public and decided testimony against them, and to refuse in all cases to celebrate them; on the churches of all denominations to put away this iniquity from

among them; and on the legislatures of the several States to restore our American statute-books to their pristine purity."

I beg also to add the following weighty and eloquent sentences from an able article in the *North British Review*, for February 1850:—

"The question, as now raised, is new to many minds; for the unbroken consent of ages has superseded discussion. We have the firmest persuasion that no sound divine, sitting down to study the question thoroughly, in the light of Scripture, can rise with any doubt whatever as to what is the mind and the will of God. But a vague impression is allowed to go abroad, that since differences of opinion prevail, revelation cannot surely be very explicit on the subject. We believe it to be explicit enough for all who choose to be guided by it;—he that hath ears let him hear. We believe the evidence to be fully stronger on this than on almost any other disputed point of doctrine, even the most fundamental. Nor will it do to allege, that surely if God had intended to make the rule we are contending for absolute, he would have said so more distinctly. This is the artifice of a weak mind or a dishonest heart. The only legitimate inquiry is,—Has he said so at all, or no? We entreat ministers and churches to give attention to this subject. Let them look to America, and take warning in time. Let them look to the Continental States, whose example is so loudly vaunted. We deliberately believe that concession here is the first step towards a total dissolution of manners, and the first blow aimed at the sanctity of England's homes.

"We might separate Scotland from the sister country on this question, for Scotland has more to say than England against the contemplated change. North of the Tweed, the absurd distinctions between void and voidable never prevailed to unfix men's minds. On all hands, it is allowed that Scotland has never had but one doctrine and one practice. Even the lawyers, who are now insinuating doubt as to what the law might be found to be if a case were tried, say in the same breath, that Scotland is, and always has been, unanimous. To force upon her a new Act that would legalise what all her churches with one voice condemn, and all her people hitherto have abhorred, as incest—and to do so merely to suit some English tastes—is a wrong and insult—we say it deliberately—that would go far to nullify all the other benefits of the Union.

..... "On many questions of practical duty men are now affecting to be wiser and better than the Bible. Plans of social progress and improvement are rife, that have an air of transcendental refinement about them, unknown to the homely morality of the Word of God. We are becoming too sentimental to endure that even the murderer shall be put to death. And now we are for bettering God's ordinance of marriage itself; and we see a fine, romantic, tender charm in an alliance of brothers and sisters, on which God has stamped his curse. What may such things betoken? Are they ominous of such unbridled lawlessness and lust as marked the days before the flood? Are they the signs of the days not unlike those that are to precede the coming of the Son of man?"

CHAPTER V.

THE WEIGHT WHICH IS DUE TO AUTHORITIES ON THIS QUESTION.

ON this head I may be brief. The previous discussion shows how little mere authorities are to be relied on, and still more how little the testimony of those who allege them to be in their favour is to be relied on. I deliberately affirm, that a greater amount of carelessness, ignorance, and even wilful misrepresentation, than have been exhibited in the agitation of this question, I have never witnessed in any controversy. One reason of this undoubtedly is, that it has been agitated by parties whose very position makes them unscrupulous, and whose wealth affords them the means of employing agents of a similar character and description. I have quoted numerous authorities on the side of the question which I most conscientiously, and, I believe, on grounds of Scripture, reason, and expediency, maintain. But not one of these has been quoted for the mere greatness of his name, but to meet the argument from authority upon the other side, and especially for the strength of his arguments and the soundness of his conclusions. We have called NO MAN master,—“One is our master, even Christ,”—speaking, however, in his whole Word, Old Testament and New.

In estimating the value of authorities, the following rules and principles ought to be observed. One must know—

1. Whether they have not only general knowledge, but general knowledge of the Hebrew language and of the Hebrew Scriptures.
2. Whether they have critical sagacity as well as verbal knowledge.
3. Whether they have carefully studied not only a particular passage, but the general subject in question or under discussion.
4. Whether they acknowledge the Old Testament authority, and to what extent.
5. Whether they hold the moral law and the Levitical law of marriage binding, and to what extent.
6. Whether their own feelings, passions, or interests, are not involved in the case.
7. Whether they are men who bow supremely to God's authority when discovered, and who do not hold their own conscience or judgment their rule, whatever may be the actual judgment of God in the matter and his law in reality.

If authorities on this question be tried by these tests, a great portion of those pleaded will be found of little weight. And in respect to all who plead authorities and names, whether correctly or not, and then think we must bow to them without more ado, though I will not take the rule for myself, I think it would be a fair one to them, viz., that they take them as an authority in everything else; and we shall then have neither Socinians, nor Neologians, nor Papists, nor Puseyites, nor Pelagians, nor Arminians, nor Voluntaries, or we must have and be all at once. All who desire to deal with authorities as to matters of opinion, and quote any other authority for opinion in religion and morals than the Bible, should be fairly held bound by this rule. But, in truth, the dealers in authority, though great declaimers against bigotry, and the champions *par excellence* of freedom of judgment, know perfectly well that, with the mass of mankind, authorities

are in such cases better than arguments, because they save the trouble of thinking, and serve the purpose of father confessors, on whom uneasy consciences may repose, if not in safety, at least in some measure of present quiet. They know that, in reality, the *twenty* names, it may be of no intrinsic weight at all on the point in dispute, are much more easily quoted than the *twenty thousand* with which the history of the Church and the world, in their assemblies, synods, councils, statutes, and judicial procedure, furnishes us.

Upon the whole, I have to add, that in perusing the pamphlets and tracts of the Libertarians, one cannot fail to be convinced of their determination to carry their object; and if wealth, zeal, and organised machinery, limited by no scruples, and capable of using any arguments or any authorities, or any falsifications of history or of individual opinion, no matter to what consequences, in the subversion of all the decencies and proprieties of social life, they may lead, can gain their ends, these men must succeed. If the friends of truth, purity, domestic peace, and social order—if those who have any regard to the maintenance of the authority of God's law as a rule of life, do not bestir themselves, there is no small danger that the unscrupulous efforts of these men will prevail. We must not be deceived, nor deterred from characterising the unscrupulous conduct and character of the moving parties, because they may have succeeded in obtaining in their favour the opinions of some few men whose general correctness may be unquestionable. I know not the error in opinion which may not be backed by a thousand authorities of this sort. But what value can be attached to names when you find such a man as Lord Denman—I cannot say gravely, for his pamphlet is marked by most unseemly levity—writing a pamphlet to herald the speech of the Earl of St Germans on the subject, and this latter noble lord gravely telling the House of Peers that the petitions he was about to present for a repeal of the present law had been signed by 98,000 persons, as also by 16,000 married women, and that he “believed there was not the name of a single person attached to these petitions who is not competent to form a correct judgment on this question?” These worthy people surely “spend their strength for nought and in vain” in searching for authorities, when they have not only 98,000 males, but 16,000 married women, all competent judges. Alas! for the judgment, and feelings, too, of English women, if they are so easy in the way of signing petitions. Whatever noble lords may imagine, such a fact—if it be a fact—can fill the mind of sober-thinking men only with disgust. What sort of married women they may be who are thus busied in providing for their husbands successors to themselves, and who have all unmarried sisters at hand for the office, I cannot divine, unless they be such as contemplate a similar convenience on the other side for themselves in due time. Such statements in regard to numbers as those made by Lord St Germans may be useful to sway the judgment of politicians, who have no other rule of morals as legislators but public opinion, or the opinion of their electors; but to use mere numbers as a means of influencing the minds of men on a question affecting the law of God, and the highest interests of morality and social well-being, is what cannot be too strongly reprobated and condemned.

There is one authority, much trusted to on this subject, which truth compels me to notice, viz., that of Dr Chalmers. Although the writer will yield to no man in respect for the memory of Dr Chalmers, he is, nevertheless, constrained to say, that there is not the smallest evidence to prove

that Dr Chalmers was remarkable for Biblical scholarship, or even for great general literature. His greatness lay in other departments altogether. On a question such as that before us, no man, however great his ability or reputation, is entitled to give an authoritative judgment or confident opinion, without an extent of investigation which there is no reason whatever to believe that Dr Chalmers ever gave to it. Most certainly no one denounced with more honest indignation than he did the folly of thinking, that because a man was great in some departments he must be great in every department. We believe no one would have condemned more strongly than he the use that has been made of his hasty, cursory reflection. But as it has been employed as an argument of great weight, it is right that its extent should be known. I avail myself of the following extract from the able pamphlet of the Rev. John Montgomery, previously quoted:—

“It is upon this verse that Dr Chalmers, in his ‘Daily Scripture Readings,’ makes those observations over which Mr Wortley and his friends sound the trumpet of exultation. Here the author may be allowed to quote from an article contributed by him to the *Free Church Magazine* in May last—in which, after a brief examination of the argument as to the meaning of this verse, he went on to say:—‘We might, perhaps, after this statement with regard to Lev. xviii. 18, be justified in passing on to another branch of our argument, without reference to the unfortunate remark made upon this verse by Dr Chalmers, in his “Daily Scripture Readings.” We confess that it is with pain we allude to it; but we would probably be charged with unfairness if we did not, and we are not indifferent to the evil use which may be made of so great a name. We know how readily the advocates of error lay hold of any inadvertency upon the part of the eminent champions of truth; and we were prepared to expect that the supporters of Mr Wortley’s Bill would turn to great account the inadvertent admission made by Dr Chalmers, even before we saw Mr Wortley’s published Letter to Principal Macfarlan, in which he endeavours to persuade the Very Reverend Principal, and through him the people of Scotland, into approbation of the proposed measure. The words of Dr Chalmers are these:—“It is remarkable that, while there is an express interdict on the marriage of a man with his brother’s wife, there is no such prohibition against his marriage with his wife’s sister. In verse 18, the prohibition is only against marrying a wife’s sister during the life of the first wife, which of itself implies a liberty to marry the sister after her death, besides implying a connivance at polygamy.” This Mr Wortley describes as a recorded judgment, expresses himself as sure that “by the whole Church of Scotland, notwithstanding recent differences, the judgment and opinion of Dr Chalmers on such a point as this will command respect;” and goes on to speak of a “mind like his, in the secret communing with God and his own conscience, and in the unbiassed and deliberate exercise of its undiminished powers,” coming to this conclusion “upon the close examination of Scripture.” It is worthy of observation, however, that the words above quoted from Dr Chalmers are all that relate to this subject. And do these words, we would ask, justify Mr Wortley’s language concerning Dr Chalmers’ “clear testimony,” “recorded judgment,” a “conclusion come to upon the close examination of the Scripture, in the secret communing,” and so forth? Is it fair thus to adduce such a passage of a posthumous work, and of such a posthumous work? To us it seems a poor compliment to the memory of the illustrious dead, to represent Dr Chalmers as in this hasty, indifferent manner, record-

ing a deliberate judgment on a grave question—that judgment also being contrary to the Confession of Faith, which he had deliberately subscribed. It was not thus that Dr Chalmers would have treated that Confession of Faith, if he had found cause to think that upon any point it was in error. We think it most obvious that we have here no deliberate judgment of Dr Chalmers at all, that the *close examination* is a mere assumption of Mr Wortley's, and that the unfortunate words he quotes are nothing else than the hasty jotting of a hasty thought. We venture to express our confidence, that Dr Chalmers never would have written such words with the language of the Westminster Confession of Faith present to his mind, and far less would he have committed them to the press. Nay, we are confident that he never would have written them if even the marginal reading had met his eye; but we suspect he sat with the pen in his hand, noting down the reflections that occurred to him as he read his daily portion in an English Bible, whose type suited his failing sight, and in which marginal references and readings were wanting. To the Hebrew idiom, it is impossible to suppose that he had for a moment adverted. Nor could any man have written the first sentence above quoted, if it had occurred to him that the marriage of a father with his daughter is not expressly prohibited, although there is an express interdict upon the marriage of a man with his mother, or even with his stepmother.*

“To all this it may be added, that when this subject was discussed in the Free Presbytery of Edinburgh in May last, in consequence of Mr Wortley's Bill, Dr Cunningham called the attention of his brethren to another passage of the ‘Daily Scripture Readings,’ occurring only a few pages after that of which Mr Wortley and his friends make so much, in which a principle is laid down directly leading to a conclusion the very opposite of that to which they would have us believe that Dr Chalmers had deliberately come. On the 19th verse of the 20th chapter of Leviticus, of which verse the words are these, ‘And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister; for he uncovereth his near kin: they shall bear their iniquity,’ Dr Chalmers says, ‘On verse 19, let me remark, that a mother's sister is not of nearer kin than a sister's daughter, nor is a father's brother* of nearer kin than a brother's daughter.’ This is the assertion of one of the most important principles upon which the Westminster Assembly proceeded in framing that portion of the Confession of Faith which relates to the prohibited degrees; and upon this principle the class of marriages now under more particular consideration must immediately be condemned, because a brother's wife is not of nearer kin than a wife's sister (or, to state the case conversely, than a sister's husband), and concerning a brother's wife there are express prohibitions both in Lev. xviii. 16, and in Lev. xx. 21.”

The names of Wesley, Bunting, and Whately, have been somewhat pompously paraded by Dr Eadie, and others, as of great weight in this controversy. Their opinions, and the reasons of them, so far as I know, are found in the Report of the Royal Commissioners. All that it furnishes of Wesley's is the following statement of Dr Bunting on the point:—“I have no means of knowing whether the opinion which I have expressed, ‘that the divine law, as exhibited in the Holy Scriptures, does not clearly prohibit the marriage of a bereaved husband with the sister of his deceased

* “I presume that, either by a slip of the pen or a typographical error, the word *brother* occurs here instead of *sister*.”

wife,' coincides with the 'general opinion of Wesleyans, both ministers and laymen.' That the enactments of the Levitical law are entirely misinterpreted, when applied in condemnation of the case just mentioned, was the decided judgment of Mr Wesley, the founder of our Societies; and that judgment he strongly and repeatedly expressed in two incidental criticisms, recorded by him in his published 'Journals' on Mr Fry's elaborate tract, entitled 'The Case of Marriages between near Relations.' Fry's "tract" has been already noticed. He denies that the Levitical law is binding as a prohibition of marriage with any relation whatever. It is expecting a more than Wesleyan reverence for the name of the founder of Methodism, to parade his name as a great authority on such a ground as this produced by Dr Bunting. Dr Bunting expressed for himself "a strong *opinion*," (the italics are his own), but nothing more; he does not give the shadow of a reason for it, and yet the commissioners duly chronicle the fact in their "contents," as a thing of great weight; and italicise some words which happen to suit them, while they suppress others as easily quoted which are not in their favour.

The opinion of Dr Whately is found in the same repository, the Report of the Commissioners, in two letters published in their Appendix. It amounts to nothing more than an opinion of the general and political expediency of such marriages; and his advice to Mr Crowder, the law-agent in getting up the agitation, as to the best way of conducting it. Any thing in his letters approaching to Scripture on the point, is found in the following sentence:—"As for the allegations from the Levitical law, if any one brings them forward in sincerity, he should be prepared to advocate adherence to it in all points—alike, among others, the compulsory marriage of a brother with his deceased brother's widow." We bring forward our "allegations from the Levitical law in sincerity," and feel no necessity for the preparation here set forth. There are "points" in the Levitical law which the Lawgiver himself has repealed. The prohibitions in Leviticus xviii., we have shown, are not of the number. The marriage of the levirite was not "compulsory." Besides, the end for which the exceptional provision was made ceased with the polity of Israel. But the *whole* laws respecting marriage did not cease, but remained.

One is astonished that parties who profess such a horror of Popery, as not to allow that it can reason truly on any thing, except always when a Menochius, or other Jesuit, happens to be on their side, should yet pay such a Popish reverence to mere names, as not even to demand of them a reason of the belief that is in them, and not only so, but expect that others are to be equally reverential and credulous. This is one of the "Errors of Romanism" most certainly, Dr Whately himself being judge.

Looking at the principles and rules suggested under this last division of the subject, and the manifold proofs furnished throughout this work of the little trust to be put in mere authorities, or the assertion of authorities, I feel it to be unnecessary to follow out this head by any farther special illustration. I shall quote only one for the present. The reader has seen what are the views of some of the ablest American writers on the subject. With these before him, he will probably be at a loss what to think of such an assertion as the following, or of those who attempt to influence the judgments of Christian men by quoting it, for any other purpose than its condemnation. Dr Eadie quotes Mr Justice Story thus:—"Such marriages are common in almost all the States of America," says Mr Justice Story; 'in my

whole life I never heard the slightest suggestion against them, founded on moral and domestic considerations!"

After the proofs already furnished of opinion in America, both from the writings of eminent individuals, and from the recorded judgments of numerous ecclesiastical bodies, one cannot but wonder what has been Mr Justice Story's course of reading on the subject, or the kind of society in which it has been his lot to mingle.

ALLEGED FACTS.—ACTUAL FACTS.

It may be useful to exhibit under this head a specimen of the way in which interested parties endeavour to mislead the public mind on a grave question, and of the ease with which their most confident allegations may be met and disproved. Some of their alleged facts are not facts at all; some of them are perversions of fact; and those that are or may be facts, are perfectly useless for determining the judgment of any Christian man.

I have before me a publication by the London "Marriage Law Reform Association," entitled "FACTS AND OPINIONS IN FAVOUR OF LEGALISING MARRIAGE WITH A DECEASED WIFE'S SISTER." It is printed on very thin paper and small type, and has on the title-page the words, "SIXTY-SIXTH THOUSAND." I shall take the first page, containing a list of twenty-three alleged facts, placing them in one column, and the replies in another parallel to it, and leave the reader to judge which of the two, after what he has read in this work, is the more trustworthy. I shall take the liberty of calling those of the Association "Alleged Facts," and the replies "Actual Facts."

ALLEGED FACTS.

FACT I.

Marriage with a deceased wife's sister is nowhere prohibited in EXPRESS WORDS of Scripture.

FACT II.

This marriage is NOWHERE prohibited by PLAIN AND NECESSARY INFERENCE from the words of Scripture; the case of a wife's sister being NOT PARALLEL to that of a brother's widow.

FACT III.

This marriage is EXPRESSLY MENTIONED in Lev. xviii. 18, and there the prohibition is limited to the LIFETIME of the wife.

FACT IV.

The Jews, to whom the sacred oracles were given, have always understood the marriage to be PERMITTED by Lev. xviii. 18, and set a SPECIAL MARK of approbation on this marriage, by allowing it to take place, when there were young children, EARLIER than in ordinary cases.

ACTUAL FACTS.

ACTUAL FACT I.

Marriage is expressly forbidden with the wife of a deceased brother, and so with the husband of a deceased sister.

ACTUAL FACT II.

This marriage of a man with the sister of his deceased wife is forbidden in Lev. xviii. 16, and Lev. xx. 21, by PLAIN AND NECESSARY INFERENCE; the case of a wife's sister BEING PARALLEL to a husband's brother.

ACTUAL FACT III.

This marriage is NOT EXPRESSLY MENTIONED in Lev. xviii. 18, which relates altogether to a different subject, viz., that of POLYGAMY.

ACTUAL FACT IV.

The sacred oracles were never given to Jews only. Besides, many of the most eminent Jews held such marriages unlawful; and the opinion of others has been based on their corrupt traditions, framed to shelter their corrupt practices.

FACT V.

The ROMAN CATHOLIC CHURCH does not regard this marriage as forbidden in Scripture.

FACT VI.

PROTESTANT DISSENTERS regard the permission of this marriage as *SCRIPTURAL* and *EXPEDIENT*.

FACT VII.

This marriage MAY BE CELEBRATED, by dispensation or otherwise, in almost every country in the world, EXCEPT ENGLAND AND IRELAND, and a few of the Cantons of Switzerland.

FACT VIII.

In NO COUNTRY has it been proved that the permission of this marriage has been attended with injurious consequences.

FACT IX.

The absolute prohibition of this marriage in England is a RECENT INNOVATION, dating no more than SIXTEEN years back.

FACT X.

Before that period, there is no instance of a suit to annul such marriage, or punish the parties, ON THE GROUND OF RELIGION AND MORALITY.

FACT XI.

The Act of 1835 PURPOSELY AVOIDED touching on the question of what were the prohibited degrees, leaving that important subject for FUTURE CONSIDERATION.

FACT XII.

This Act either renders valid, retrospectively, WICKED marriages, or it condemns, prospectively, INNOCENT ONES.

FACT XIII.

This Act does NOT command the respect and obedience of society.

ACTUAL FACT V.

The ROMAN CATHOLIC CHURCH DOES regard, and always has regarded, such marriages as forbidden in Scripture, though the Council of Trent claims the power of dispensing even in a divine prohibition. See Canon iii., *De Matrimonio*.

ACTUAL FACT VI.

MULTITUDES OF PROTESTANT DISSENTERS regard this marriage to be alike *contrary to Scripture*, to GOOD MORALS, and to SOUND EXPEDIENCY.

ACTUAL FACT VII.

Such marriages are contrary to the law of England, Scotland, and Ireland, and of all the Cantons of Switzerland; Neuchâtel, which is a principality of Prussia, being the only one where a dispensation is granted; dispensation being not the LAW, but the exception, in almost all Christian countries in the world.

ACTUAL FACT VIII.

In EVERY COUNTRY where such marriages are permitted licentiousness abounds, and the consequences have BEEN MOST INJURIOUS.

ACTUAL FACT IX.

The absolute prohibition of such marriages in England has existed since the time that England became Christian, though, through a defect in the law, civil consequences did not follow till recently, unless enforced during the lifetime of both parties.

ACTUAL FACT X.

Before that time there were many suits on the ground that such marriages were a violation of the law, both civil and ecclesiastical; the usual ground on which such suits proceed in courts of law.

ACTUAL FACT XI.

The Act of 1835 PURPOSELY AVOIDED touching on the question of what were the prohibited degrees, because THERE NEVER HAD BEEN A DOUBT on the subject; and NO DOUBT was raised, OR INTENDED TO BE RAISED, by that Act.

ACTUAL FACT XII.

This Act only prevents the raising of questions as to civil effects in regard to cases past; but declares all such marriages CRIMINAL, UNLAWFUL, and VOID, in the time to come. A process might still be raised under it against the parties for the incest committed before its enactment.

ACTUAL FACT XIII.

This Act DOES command the cordial respect and obedience of society. No

FACT XIV.

THOUSANDS of such marriages have been contracted; they are found in almost every town and neighbourhood in the kingdom.

FACT XV.

Society, almost without exception, regards such persons as **RIGHTLY MARRIED, and WORTHY OF RESPECT**; and in so doing condemns the law which renders their marriage void.

FACT XVI.

Numerous **CLERGYMEN** of the **CHURCH OF ENGLAND** have petitioned for the removal of this restriction.

FACT XVII.

Almost every person of note in the **CITY OF LONDON** has petitioned to the same effect.

FACT XVIII.

Some of the most eminent **JUDGES** have voted for such a measure.

FACT XIX.

All the leading firms of **SOLICITORS** have petitioned against the existing law.

FACT XX.

Some of the most distinguished of the **NOBILITY** have voted for this measure.

FACT XXI.

A majority of the members of **HER MAJESTY'S GOVERNMENT** have voted for this measure.

FACT XXII.

Numerous **PUBLIC MEETINGS** have been held in the principal towns of England, almost **UNANIMOUSLY** advocating the removal of the prohibition.

Act commands the obedience and respect of those who wish to gratify their passions in its violation.

ACTUAL FACT XIV.

Thousands of unlawful sins and crimes of this nature are found in almost every town and neighbourhood in England; but that does not render them innocent. Such marriages are scarcely known in Scotland and Ireland.

ACTUAL FACT XV.

Society, without exception, in Scotland and Ireland, and in the great majority in England, consider such persons **AS LIVING IN A STATE OF CONCUBINAGE**, view such marriages **WITH LOATHING**, and **HIGHLY APPROVE OF THE LAW**.

ACTUAL FACT XVI.

Numerous clergymen of the Church of England have not only signed petitions, but given evidence, **IN GREAT IGNORANCE OF THE WHOLE SUBJECT**. Besides, unhappily, the actions of too many English clergymen are not always proof of their wisdom, or even of their piety and morality, or of belief in their own professed creed.

ACTUAL FACT XVII.

Though the **WHOLE CITY OF LONDON** had so petitioned, it would not alter the law of God; but if it be as stated in this alleged fact, it seems to have weighed very little with the British Legislature.

ACTUAL FACT XVIII.

The **MAJORITY** of the most eminent **JUDGES** have **CONDEMNED** such marriages, and voted **AGAINST** such a measure.

ACTUAL FACT XIX.

Whether it be as alleged or not, is little to the purpose in determining a question of the law of God. [Query, How many of these firms were retained by the Association?]

ACTUAL FACT XX.

Some of the most distinguished of the Nobility have too often proved themselves not the best examples of obedience to the ten commandments, and especially to the sixth and seventh.

ACTUAL FACT XXI.

Her Majesty's Government may be one set of men to-day, and another set of men to-morrow. Their votes are no great proof of the religious and moral nature of any question, one way or other.

ACTUAL FACT XXII.

Numerous and highly **INFLUENTIAL PUBLIC MEETINGS** in Scotland have **UNANIMOUSLY CONDEMNED** the removal of the prohibition of such marriages; and the agitation of the agents of the London

FACT XXIII.

Under the Legacy Duty Act, a widow pays no duty—a child 1 per cent.—a cousin (ever so distant) 3 per cent.—but a wife's sister 10 per cent., because she is "A STRANGER IN BLOOD."

Association has been REFUDIATED and PUT DOWN in Scotland. Besides, public meetings generally speak the sentiments of those who have organised and called them.

ACTUAL FACT XXIII.

What relation the legacy duty paid by a widow or a child has to such a question it is impossible to discover. The reason of 10 per cent. exacted from a wife's sister, not related in blood to the party bequeathing the legacy, is manifest, viz., that the rule of succession and inheritance has always been held to be different in relationships by affinity from that of relationships by consanguinity, even where the law has been most stringent in prohibiting such marriages. See p. 76, at bottom.

ACTUAL FACT XXIV.

I venture to add another ACTUAL FACT. It is very strange if Scripture, reason, history, governments, parliaments, and public opinion, are all, as the Association alleges, in favour of such marriages, that nevertheless the courts, civil and ecclesiastical, and the Parliament of Great Britain, have decided against their legality, and against the propriety of legalising them.

A subsequent, or second series of the same kind of *facts* has been published by the same parties. They are certainly not more trustworthy than the first, and might be exposed with equal facility. Some of them are directly untrue, many of them irrelevant, others of them absurd, and all of them deceptive; and it would be trifling with the reader to continue the proof and illustration after the specimen already furnished of a whole first series. It may be added, that the materials for their contradiction, on every point relevant to the argument, it is believed, will be found in the preceding pages. The specimen we have given is fitted to put the public on their guard against the machinations of parties who seem to have only one end—that of gaining their object—an object upon which they are so intent, that the end seems in their eye to sanctify the means.

As to "OPINIONS," such an exposure and examination of them, whether actual or alleged, we believe has been furnished in the course of our inquiry as will enable any one, who truly desires to ascertain the truth, to determine for himself.

GENERAL AND PARTICULAR CONCLUSIONS.

I HAVE thus brought the main portion of this subject to a close. I have purposely avoided all discussions as to the mode of determining the degrees

of kindred, the giving of general schemes and tables of the relative degrees and prohibitions, and such matters. I wished to keep as closely to the one point as possible. For the sake of those curious in such matters some of these are given in the Appendix. In the meantime, let us see what has been done in these pages.

I. On the historical part of the question, in relation to the Jews, it has been shown :—

1. That, if no great argument in favour of the unlawfulness of marriage with the sister of a deceased wife can be drawn from the direct opinions of the uninspired Jewish writers, as little can any be derived in support of the opposite view.

2. That the Jews have always held the prohibitions in Leviticus xviii. to relate to *incestuous marriages*. The contrary assertion is contradicted by all their writings on the subject.

3. That even the Talmudists held that these prohibitions applied equally to cases of "nearness of kin" by affinity as to cases of "nearness of kin" by consanguinity.

4. That, in interpreting Leviticus xviii., they held that the law in regard to the sexes was convertible, and that they held also the principle of parity of reasoning—that is, that what is forbidden to a man is forbidden to a woman, and *vice versa*.

5. That wherein there is any appearance of their maintaining that this principle did not hold in relation to the sister of a deceased wife, it arose from the views of the Talmudists on the supposed lawfulness of polygamy.

6. That whatever were the views of the Talmudists, and they are certainly not *all* on the side of the lawfulness of the marriages in question, they are of no force or effect to determine the decisions of the law of God. That law is as open to us as to any Jews whatever, ancient or modern, and as capable of being understood by us as by them. Nay, if we are true Christians, "willing to do the will of God," it is much more likely to be understood by us than by them.

7. That they held such views as to their obtaining salvation by their own self-righteousness, and from their natural descent from Abraham and other patriarchs, as led them, in the matter of polygamy, to hold that what these patriarchs did was an example, sanction, and rule to them, whatever might be the decisions of the law of God itself.

8. That, therefore, the opinions of Jews as Jews are to be dreaded and shunned rather than followed.

II. In relation to the Christian church, it has been shown :—

1. That the early Christian church did not adopt any new law or principle, different from the Levitical, in deciding on the lawfulness or unlawfulness of the degrees in marriage. They served themselves heir to the Levitical law, and pleaded its authority as the Word and Law of God.

2. That the first decisions of the Christian church on the question, of which we have any record, are against the lawfulness of such marriages, and assume that it never was otherwise in the Christian church.

3. That the judgment of the church, down to the period of the Reformation, was uniformly to the same effect.

4. That this uniformity could not be attributed to the corruptions of the Papacy, which only added other prohibitions, neither warranted by Scrip-

ture nor early custom; but this in no way altered the fact, which was fact before the Papacy as such was known or developed. The fact that unwarranted additions were made by the Papacy to the law of God no more subverts that law than its idol-worship, and human mediators, overthrow the unity of God, and the divinity and mediation of the Lord Jesus Christ.

5. That what renders this fourth conclusion indisputable is the historical fact, that the Waldenses, who have all along repudiated the authority of the Papacy, and continued to trace up their views to the time of the apostles, as well as founded them on the written Word of God, have held, and do to this day hold, such marriages to be unlawful.

6. That it is therefore an entire misrepresentation of historical fact to assert that the doctrine which maintains that such marriages are unlawful is derived from Popery and the Canon Law.

7. That the Canon Law professed, on this question, to be based on Scripture, particularly on Lev. xviii. 16, xx. 21, and the relative Scripture principles.

8. That, to the time of the Reformation,—that is, for 1500 years,—there was only one opinion in the professing Christian church, viz., that such marriages were unlawful.

9. That while, at the Reformation, the Reformers threw off entirely the authority of the Papacy, and professed and acted on the great principle that nothing was binding on the conscience of Christians but what was binding by the authority of God revealed in the written Word, all the churches of the Reformation, without any exception, held such marriages to be unlawful, as is proved by their codes of discipline and creeds, as well as by universal ecclesiastical law.

10. That this continued to be universal till a comparatively very recent period. That the exceptions can be traced to the prevalence of principles altogether different from, if not actually hostile to, the Word of God. So that whatever value is to be attached to the views held by the Christian church for nearly 1800 years, without any difference of opinion, it is altogether on the side of those who maintain the unlawfulness of such marriages.

III. On the relative testimony of human legislation, it has been proved:—

1. That as soon as the Roman Empire became professedly Christian, its legislation on this subject was to the same effect, and on the same principles, as the decisions of the Church.

2. That this continued in all professedly Christian States down to the period of the Reformation.

3. That at, and after, the period of the Reformation, down almost to the present day, and certainly till about the end of the last century, when Neological and French principles began to prevail, and threatened the subversion of social morality and of society itself, human legislation continued the same in all the Protestant countries of Europe and America.

IV. From a comprehensive view of these facts, this historical deduction may be drawn, viz.:—THAT IN ALL COUNTRIES WHICH HAVE PROFESSED TO RECOGNISE THE AUTHORITY OF THE BIBLE, AS A BASIS OF HUMAN LEGISLATION, SUCH MARRIAGES HAVE BEEN ACCOUNTED UNLAWFUL: and in a question of this kind the authority of others is entitled to no respect.

V. The inquiry has next been raised, How is this to be accounted for? or, in other words, On what grounds were they warranted to come to such a conclusion?

Under this inquiry it has been shown:—

1. That the Old Testament, as well as the New, is our rule of faith and manners, in this as in all questions of social duty or morality.

2. That on the present question *we* are to be mainly guided by what we find in chapter xviii. of Leviticus, and relative portions of the Old Testament; otherwise we have no law on the subject; although a *law* is imperatively needed.

3. That the principles of Leviticus xviii. are of universal application—applicable to Gentiles as well as to Jews—as has been held not only by the ablest divines, but by the ablest jurists, in all Christian countries.

4. That where the prohibitions are addressed to the man, it is as head of the woman; and that what is forbidden as sin to the one, is forbidden as sin to the other.

5. That the general principle of the prohibitions in this eighteenth chapter is “nearness of kin.”

6. That this principle, “nearness of kin,” applies to cases of affinity as certainly as to cases of consanguinity.*

7. That marriage with the widow of a deceased brother is prohibited in express words in Lev. xviii. 16, and Lev. xx. 21; and by consequence marriage with the widower of a deceased sister. If the woman cannot marry the widower, the widower cannot marry her. In other words, marriage with the sister of a deceased wife is forbidden. This conclusion is strengthened by the fact, that marriages in cases of relationship by affinity more remote are prohibited in express words.†

8. That the law of the levirite being exceptional and peculiar, and declared to be for a specific purpose, is a clear proof of the general prohibition of the marriage of a man with a brother's widow in all other cases, and so of her sister with the widower.

9. That the specific end of this peculiar law having ceased with its fulfilment, the general law is left intact and alone.

10. That the prohibitions in Leviticus xviii. can in no sense be said to be *ceremonial*.

11. That they cannot be said to be judicial in the sense of being applicable only to the peculiar polity of the Israelites—there being no such pecu-

* By turning back to pp. 64, 65, the reader will find an answer to an attempt which has been made to show, as if by divine authority, that “nearness of kin,” from the use of the phrase, Lev. xxi. 2, 3, must be understood of certain definite blood relations. The answer we have there given to this attempt is confirmed and rendered unquestionable, by the repetition of the same law in Ezekiel xlv. 25, “And they (the priests) shall come at no dead person to defile themselves: but for father, or for mother, or for son, or for daughter, for brother, or for sister that hath had no husband, they may defile themselves.”

† The following opinion of Archbishop Whitgift is important, and throws light upon the passage quoted from Selden, at p. 11, and on the fact that the wife's sister, *SOROR SORORIS*, is one of the degrees set down by him in his scheme as expressly forbidden in Scripture, according to the Talmudists. I was at first a little puzzled to account for this fact in consistency with their opposition to the principle of the Karaites. The opinion of Archbishop Whitgift explains it:—“I see not how you differ from that opinion which is THE GROUND OF ALL PAPISTRY, that is, *that all things necessary unto salvation are not EXPRESSED in the Scriptures*. . . . There is nothing necessary to eternal life which is not both commanded and expressed in the Scripture. I count it expressed, when it is either in *manifest words* contained in Scripture, or thereof gathered by *necessary collection*.”—Quoted by Goode, in his important work entitled, “The Divine Rule of Faith and Practice,” London, 1853.

liarity about them. They have in them principles of natural equity; and, as they relate to universal society, are still binding.

12. That the most eminent Protestant divines and jurists have held these views of the law of Leviticus.

VI. In the sixth place, on a farther consideration of special Scripture texts, it has been shown:—

1. That Leviticus xviii. 18 cannot be held in the light of an exception to Leviticus xviii. 16, and at the same time a repeal of the original law of marriage found in Genesis ii. 23, 24, repeated in Malachi ii. and in Matt. xix.; and that it has neither the position nor the form of an exception to Lev. xviii. 16.

2. That Leviticus xviii. 18 is the introduction, and has the form of the introduction, of a new subject—that subject being the prohibition of polygamy, or more wives than one.

3. That those who maintain that Leviticus xviii. 18 is a sanction to polygamy, maintain it on the most inconsistent and even ridiculous grounds.

4. That writers and others who maintain the lawfulness of the marriages in question, have most grievously misrepresented the views of the most eminent commentators on the subject; who, with scarcely one exception, hold the unlawfulness of the marriage of a man with the sister of his deceased wife.

VII. In the seventh place, in regard to the marginal reading of Lev. xviii. 18—viz., “*One to another*”—it has been shown:—

1. That our argument is complete without the marginal reading, and does not depend on it.

2. That the translators of the authorised version of the English Bible deemed the marginal reading the true reading.

3. That it was so deemed by the most eminent scholars, translators, lexicographers, commentators, divines, and jurists of the Protestant world.

4. That the marginal reading can be fully vindicated on its own merits, and that it cannot, by any thing yet attempted, be proved to be false or be set aside.

5. But unless it can be proved to be false and be set aside on purely critical grounds, and the interpretation of the opposite party proved true on critical grounds—viz., that it sanctions polygamy—their whole argument is without foundation.

6. That Leviticus xviii. 18, the meaning of which is disputed, cannot be pled in proof of its own meaning, viz., of the meaning which our opponents put upon it.

VIII. In the eighth place, on the subject of polygamy, it has been shown:—

1. That polygamy was unlawful from the creation to the time of Moses, by the original law of God, Gen. ii. 23, 24,—that is, for the space of 2,500 years.

2. That it has been unlawful since the time of Christ by his own clear decision.

3. That there is nothing in the Mosaic period, or in the character and

conduct of the men of that period, to make polygamy more lawful during it than either before the time of Moses or since the time of Christ.

4. That the conduct of polygamists, as polygamists, during the Mosaic period, is severely condemned by God, speaking by the prophet Malachi, chap. ii. 14-17.

5. That it was unlawful in all these periods; and therefore the interpretation put upon Leviticus xviii. 18, by the Libertarians, cannot be maintained on the ground of any Scripture proof that polygamy ever was lawful in the sight of God.

6. That, therefore, our Scripture proof, from other sources, that marriage with the sister of a deceased wife is unlawful, contrary to the law of God, is totally unaffected by Leviticus xviii. 18, which relates to a different subject, and is a prohibition of more wives than one.

IX. In the ninth place, in reference to all the points brought under our review in the preceding pages, it has been shown :—

That a world of misrepresentation has been practised by writers on the other side: much of it rash; some of it, it is to be feared, wilful, if not deliberate; and at all events altogether inexcusable in a grave and important controversy, affecting the law of God and the highest interests of human society.

X. In relation to the fourth general head—viz., The effects of the opposite opinions, or the opinions of those who affirm the lawfulness of such marriages—it has been shown :—

(1.) In regard to their *principles*—

1. That while they are of the most inconsistent and opposite kind, they subvert the integrity and authority of Scripture as the rule of faith and manners, and especially of the Old Testament.

2. That they subvert not only all Scripture rule and law on the subject of incestuous marriages, but the authority of the moral law itself.

3. That they not only subvert the Scripture law and authority on such subjects, but they pervert it into a positive sanction of polygamy, and other forms of uncleanness.

4. That many of the parties pursue their ends on principles, and by practices, which go to destroy the duty which we owe to government as an ordinance of God, and encourage human beings to disregard it where no duty to God compels them to do so, and to brave public opinion even in exposing their own shame.

(2.) In regard to the *effects*, probable or actual—

1. That these effects are of the most immoral and dangerous kind; and felt to be so, as proved by the common consent of Christian men and Christian parents.

2. That the pretended advantages are not for a moment to be compared with the evils of declaring such marriages lawful in the sight of God and by the law of man.

3. That the actual effects, so far as they can be traced, both in Europe and America, have been of the most revolting and alarming description.

Let Bible law and principle be unsettled and removed, and nothing can result and remain but the abominations of heathenism.

Of course, I do not say that every one who advocates the lawfulness of

such marriages, holds all the opinions justly chargeable with such consequences; still less that they admit or perceive that such consequences are fairly deducible from the opinions which they do hold. But taking a complex view of their whole opinions and actings, I most firmly believe that these are chargeable with the effects and consequences above alleged. Neither do I affirm of all the men who advocate the lawfulness of such marriages, that they are neither good nor pious men. To their own Master they stand or fall. Men who have been, or have been thought, good and pious men have many times broached the worst opinions. Our rule is, "To the law and to the testimony." Their opinions, reasonings, and practices are the fair subjects of discussion and judgment; and we are not to be deterred from canvassing either their nature or effects by the alleged excellence of their authors. If their opinions are bad, their piety, real or supposed, makes them all the more dangerous, and the duty of exposing them, however painful, all the more imperative. Mere declamation as to the want of charity to the opinions of good or pious men, will neither remove facts nor answer arguments. The exposure of erroneous or dangerous opinions is not an attack upon men's persons; on the contrary, it may often, and should always be, intended for their good. Men can only claim the right to show that their opinions are not chargeable with the bad consequences alleged, or that such opinions are not theirs. But for the opinions we hold we cannot claim exemption from responsibility; or if we do, neither truth nor the interests of society can afford to grant it. It is impossible to observe with any degree of attention what is passing in the world, and not to see that, with all men's contempt for authority, no argument is more commonly pleaded, in this and other matters of opinion and conduct, than what we have called the "good man" argument. Few things are more hurtful to truth and morals.

XI. In relation to my fifth general head—viz., The weight due to authorities on this question—it has been shown :—

1. How little mere authorities are to be relied on; and still more how little the testimony of those who allege that these authorities are in favour of the marriages in question is to be relied on.

2. That to estimate the value of authorities, certain rules must be observed.

3. That the allegation of mere numbers in favour of such marriages is irrelevant and unwarrantable.

4. That some names of great celebrity in other departments, and quoted as authorities in favour of such marriages, have given no proof of their having studied this particular subject, or that they were even general Biblical scholars.

XII. In relation to certain alleged facts, published by the London "Marriage Law Reform Association," it has been shown :—

Either that they are not facts at all, or are altogether irrelevant to the settlement of a question which must rest ultimately on the authority of the law of God, revealed in the sacred Scriptures.

The author has now brought this work to a close. He sends it forth to the world under a deep conviction of the inherent and relative importance of the questions involved. He has no end to gain in this discussion but

the honour of God and of His truth and law, and the promotion of the best interests of the church of Christ, and of man in all his domestic and social relations. If it shall, by the blessing of God, which he continues to implore upon it, be honoured to promote these ends, he has all the reward he has ever contemplated or sought in its preparation. Believing in the prevalence and danger of many principles to which he has had occasion to advert, he is most anxious that his brethren in the ministry, and religious, intelligent men in general, should know the real state of the case, be awakened to see its importance, and be furnished with the means of effectually opposing the further progress of opinions and schemes which he deems most injurious and pernicious to all the high interests to which reference has just been made. He hopes his countrymen are yet very far from being willing to plunge into the gulf of continental opinions and manners; and that when men venture to plead, as they have the hardihood to do, not only the practices of continental nations, steeped in neology, infidelity, pantheism, and licentiousness, but even the numbers of Mahometans and Pagans who are alleged to hold their views, as reasons for influencing the conduct of Christian men or Christian governments, they will be so far from being looked upon as examples to follow, that they will be regarded as beacons to warn of "snares, pitfalls, and death," and those who put them forth as lures, regarded with the righteous indignation which such conduct deserves from Britons and Christian men. Forbearance may be shown, and may be a duty, in regard to those who either erroneously or rashly come to wrong conclusions on a question of this kind; but they who plead the practice of those whom Christianity condemns, as an example to follow, and carry on a system of organised agitation, and stick at no means of confusing the minds of men, and do what they can to seduce them into a violation of the laws of their country, that the law may become contemptible, and its removal compelled, and all this for the purpose of extricating men who have, with their eyes open, and under no constraint of religion, morality, or conscience, plunged themselves and others into serious difficulties, deserve no such charitable consideration. Rather do they owe it to religion and society to repent of their sin; and religion and society owe it to themselves to take all careful means to secure their own defence and protection against their pernicious acts and influence. If my voice could reach the ministers of the gospel, or influence ecclesiastical bodies, or the organs of public opinion whose views are not committed in favour of such marriages, I would most earnestly entreat them to give the subject full and serious consideration; and I would urgently call upon those whose views are opposed to them, to take all proper means and opportunities of expressing them, and of preventing the spread of opinions which threaten to subvert the foundations of Scripture truth and morals, and most seriously to endanger the purity and peace of our domestic constitution, and to destroy what has hitherto been a peculiar character and charm of our beloved country, viz., a secure, confiding, unsuspecting, and happy home—the solace of life and the safeguard of virtue.

APPENDIX.

A.

LAW OF ENGLAND.—P. 43.

The author has received the kind permission of Mr Parker, of Oxford, the publisher of Mr Badeley's speech referred to at p. 43, to give the following important extract on the Law of England :—

In reference to that, my Lords, as to the effect in this respect of the canons of 1603, I would direct your Lordships again to a case which I cited in my former address, that of *Butler v. Gastrill*, which is in *Gilbert's Reports*, p. 156. I will not trouble your Lordships by reading again the passages to which I then referred for a different purpose, but I turn now to a passage which will be found in the judgment, at page 159, with reference to the canons. "The intention of our Statute" (that is, the Statute of 32 Henry VIII.) "was to restore every thing according to the prohibition expressed in the law of God, and plainly the Levitical computation of degrees was in the manner they computed in the civil law, which was from the propositus up to the common stock, and so down again to the other relations. And by the canons confirmed by Jac. 1, in 1603, the 99th canon expressly saith thus, 'No person shall marry within the degrees prohibited by the laws of God, and expressed in a table set forth by authority in the year of our Lord 1563; and all marriages so made and contracted shall be adjudged incestuous and unlawful, and consequently shall be dissolved as void from the beginning; and the parties so married shall by the course of law be separated. And the aforesaid Table shall be in every church publicly set up, and fixed at the charge of the parish.'" Then the judgment goes on thus,—“And it appears by that Table that to marry a wife's mother's sister is incestuous. Indeed, it has been duly objected to this manner of argumentation, that the canons charged only ecclesiastical persons, and do not bind the laity, because they are made only by the clergy in convocation, and so they only are bound by these rules; and laymen are not bound, because such canons have not the consent of the Commons and temporal Lords, and as such cannot bind the laity as a law." Then comes the most important part of the judgment, to which I wish to call your Lordships' attention: "But to this I answer, that these Tables do show the sense of the Church of England, and so are a proper exposition of the law of God, and, by consequence, ought to have great weight with the Judges when they expound the Levitical law; and they are plainly the decision of the Reformed Church, touching the crime of incest; and they do retrench the exorbitant and unwarrantable construc-

tions of the Church of Rome, who made the law of God of none effect by their traditions ; and yet they expound the law of God in its full latitude, and forbid marriage only to such persons as are in equal degree to those mentioned in the eighteenth chapter of Leviticus." This, my Lords, was the decision of the Court, and the opinion of a great and eminent judge upon the canons of 1603, and the effect that was to be attributed to them : he takes them, as I submit they must be taken, as very strong evidence of what had been the law of the Church of England, and what was the understanding of that Church, as to the Levitical degrees, proving that these degrees had been left *in statu quo* by the Statute of 32 Henry VIII. ; and that the ecclesiastical courts, in adopting and enforcing the prohibitions as they had been used to do, were left entirely to themselves, their jurisdiction and their rules not being at all interfered with.

My Lords, in noticing just now the distinction in the canon law, between the Levitical degrees, and the prohibitions which were engrafted on them, and stating that it had been recognised in England, I forgot to mention a curious work which I have here, the *Summa Theologica* of Alexander de Hales, the eminent English schoolman of the 13th century, to whom I have already referred. He treats of the Levitical prohibitions as binding universally, and constituting, where they were broken, the crime of incest ; and he regards the additional ones, which were merely sanctioned by ecclesiastical authority, as resting on entirely different grounds from the others, of which he says, "*Quod incestus in quantum hujusmodi malum est secundum se, quia transgreditur limites ratione vel lege Dei sine auctoritate ecclesiæ determinatos ;*" and after showing that incest in the first ages of the world must necessarily have been different, he says : "*Postea vero factâ multiplicatione ampliore generis humani exclusæ sunt personæ aliæ et factæ sunt illicitæ quæ prius erant licitæ sicut habetur in Levitico, et sunt plures numero sicut ibidem dicitur, . . . procedente vero tempore secundum constitutionem ecclesiæ facta est ulterior multiplicatio et plures factæ sunt personæ illegitimæ ad contrahendum, et hoc modo dicitur incestus in quolibet statu esse malum secundum se.*"

He is considering how far incest was in itself a crime, as committed within one set of degrees or the other. I adduce this merely by way of illustration, and as evidence that the distinction of the canon law which I have proved from the *Corpus Juris* itself, was recognised in England at a very early period ; and therefore that the statute of Henry VIII. adopted only that which the canon law and the English Church had already admitted and sanctioned. We have seen that when that statute was made, the previous statute of Henry VIII., viz., the 28 Henry VIII., cap. 7, which declared the degrees of Leviticus according to the form contained in the canon law, and included the case of the wife's sister, was undoubtedly in force. From the time of Henry VIII. we have not only the contemporaneous exposition of that period, but we have the authorities I have cited to your Lordships down to the canon itself of 1603. It remains, therefore, to see how the courts have decided, for if the contemporaneous exposition is not sufficient in a case of this sort, and if there is any doubt as to its correctness, that doubt must be resolved by a reference to the decisions of the ecclesiastical courts themselves, those ecclesiastical courts having, from the most ancient period, exclusive jurisdiction in matrimonial causes, and having been left untouched, and their jurisdiction unimpaired, by the statutes of Henry VIII. These courts for all such purposes are

superior courts, as was laid down in this very court, in the case of *Ricketts v. Bodenham* by Mr Justice Littledale, 4 *Adolphus and Ellis*, 433. He there says, that "the ecclesiastical courts, in matters within their jurisdiction, are superior courts, and not inferior to the courts of Westminster Hall." And, my Lords, in *Bunting v. Leapingwell*, in 4th *Coke's Reports*, 29^a, Lord Coke says this: "Forasmuch as the cognisance of the right of marriage belongs to the Ecclesiastical Court, and the same court has given sentence in this case, the judges of our law ought (although it be against the reason of our law) to give faith and credit to their proceedings and sentences, and to think that their proceedings are consonant to the law of holy Church; for '*cuiuslibet in sua arte perito est credendum*,' and so have the judges of our law always done."

Lord Lyndhurst's judgment, in the case of the *Queen v. Millis*, was to the same effect, for he said: "It must always be remembered that the spiritual courts were the sole judges of the lawfulness of marriage, where that question was directly in issue. If the question whether a marriage be lawful or not, was raised upon a distinct issue in the courts of common law, the rule was that it should be tried, not by a jury, but referred for decision to the spiritual tribunal, and the certificate of the bishop was conclusive." There is a case in *Sir Thomas Raymond's Reports*, p. 464, *Watkinson v. Mergatron*; I think it was referred to the other day, and I refer to it now merely to show the value to be attached to the decisions of the ecclesiastical courts in any case of doubt with respect to the law of marriage. "The plaintiff brought the defendant into the Ecclesiastical Court for marrying his wife's sister's daughter, and the defendant prayed a prohibition, because out of the Levitical degrees; but denied by the whole court, because it is a cause of ecclesiastical cognisance, and divines better know how to expound the law of marriage than the common lawyers, and though sometimes prohibitions have been granted in cases matrimonial, yet if it were now *res integra* they would not be granted."

It seems, therefore, my Lords, from all these authorities (authorities of undoubted weight), that supposing the question was at all doubtful upon the statute of 32 Henry VIII., and upon the rule of the canon law, as left untouched by that statute, the decisions of the ecclesiastical courts from that period downwards are the best evidence, and the most conclusive evidence, of the law upon the subject.

Then, my Lords, I would ask, how have these courts decided? The answer is, uniformly in one way. The cases which were cited to your Lordships in the former argument were some of them cases distinctly upon this very point—as to the validity of a marriage with a wife's sister. One of them, that of *Hill v. Good*, was brought under the notice and subjected to the most careful investigation of the courts of common law, and those decisions have been acted upon from that period to the present. I shall not refer to the cases which have been already cited to your Lordships, further than just to give the names of those in which marriage with a wife's sister has been expressly declared to be incestuous and prohibited. You had first the case of *Hill v. Good*, reported in *Vaughan*, p. 302; then you had *Harris v. Hicks*, in 2 *Salkeld*, p. 548; Collet's case, in *Sir Thomas Jones*, p. 213; *Butler v. Gastrill*, in *Gilbert's Equity Cases*, p. 159; *Brownsword v. Edwards* (the decision of Lord Hardwicke), in 2 *Vesey, Sen.*, p. 248; *Falmouth v. Watson*, in 1 *Phillimore*, p. 355; *Chick v. Ramsdale*, 1st *Curtis*, p. 44—a very recent case; and lastly

Sherwood *v.* Ray, decided by the Privy Council, and reported in 1 *Moore*, p. 353, in which Baron Parke and the other judges held, that the canon law is the law by which marriages are governed in this country, except so far as they are restricted by the Marriage Act, and that a marriage with a wife's sister is incestuous according to the divine law; and towards the conclusion of his judgment, Baron Parke says, that "the marriage of a wife's sister is illegal by the divine and the human law." Thus, my Lords, the law appears in regular chronological order from the earliest period of the Church and of this country to the present; you have had the law of the State and the law of the Church, both going uniformly in one direction,—down to the period of Henry VIII., the canon law adopted generally; at the time of Henry VIII., and subsequently, only a portion of the canon law struck off, the rest being left untouched, and the decisions of the courts uniformly adopting the same rule, and uniformly holding these marriages to be incestuous.

I would ask your Lordships, therefore, whether any case can be stronger than this, to show what the law really is, and whether, when the statute of William IV. speaks of marriages "within the prohibited degrees of consanguinity and affinity," and refers to the practice of the ecclesiastical courts, the legislature could have had in view any other prohibitions than those which had been so acted upon, and universally adopted by the ecclesiastical courts of this country, as the prohibitions contained in Leviticus, and enjoined by the statute of Henry VIII.? I would call your Lordships' attention to the words of the statute in reference to this point: "Whereas, marriages between persons within the prohibited degrees are voidable only by sentence of the Ecclesiastical Court, pronounced during the lifetime of both the parties thereto, and it is unreasonable that the state and condition of the children of marriages between persons within the prohibited degrees of affinity should remain unsettled during so long a period; and it is fitting that all marriages which may hereafter be celebrated between persons within the prohibited degrees of consanguinity or affinity should be *ipso facto* void, and not merely voidable;—Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, that all marriages which shall have been celebrated before the passing of this Act, between persons within the prohibited degrees of affinity, shall not hereafter be annulled for that cause by any sentence of the Ecclesiastical Court, unless pronounced in a suit which shall be pending at the time of the passing of this Act." Upon these words, my Lords, I do submit with confidence to your Lordships, that nothing can be clearer than that the statute of William IV. must be taken to refer to the prohibited degrees as adopted and acted upon by the ecclesiastical courts; and that those, and those only, are within the meaning of the Act. Nothing can be clearer than that when a statute thus refers in its preamble, as well as in the body of it, to the ecclesiastical law in connection with the subject of marriage, it must be taken to mean those degrees which are prohibited by that law, and to adopt them as the rule which is intended to be enforced.

My Lords, in *Bacon's Abridgment*, title "*Statute*," it is said, "It is in the general true that the preamble of a statute is a key to open the mind of the makers as to the mischiefs which are intended to be remedied by the statute."

Then, my Lords, if we see that the rule of the Church, from the earliest period, was the ecclesiastical law of this country down to the period of the Reformation, and that from the Reformation down to the canon of 1603 no alteration at all was made with respect to cases which were within the Levitical degrees, then it follows that the canon of 1603, in the regulations which it made, and in the persons whom it included within those degrees, merely adopted the ancient law of the land; and if so, I have established my point, that the case of *Middleton v. Croft* becomes a direct authority in my favour; for without troubling ourselves with Lord Hardwicke's questionable doctrine about the operation of canons generally, we have his judgment about the very point before him, precisely tallying with the present case, and declaring that such a canon as I have proved this of 1603 to be, is binding upon the laity as well as upon the clergy, and may be enforced as the law of the land; and as it is clear, from repeated cases, that this canon has been acted upon ever since it was made, without any doubt of its validity, its reception becomes evidence on Lord Hardwicke's principle of its being in affirmance of the ancient law.

Then, my Lords, if that is so, I am at a loss to find what there is upon the other side. What authority has been cited? None at all of any value; none which can be used on any pretence against us. Parson's case and Mann's case, the only two referred to, I think, on the other side by Mr Foster, so far from being for him, were proved to be directly against him; for the decision in both these cases was, that a prohibition to the ecclesiastical courts should not be granted. So far, therefore, from the authorities being, as he stated them to be in part of his argument, in his favour, they are all universally with one consent against him. I cannot find a single authority for determining that these marriages are valid. I cannot find a single instance in which any doubt has been entertained by the courts of this country upon this subject since the decision of the court in *Hill v. Good*. The very question then was disputed, argued, and considered at very great length, and with very great care; and the result of that decision was, that marriage with a wife's sister was invalid. The ecclesiastical courts were left to enforce their rules upon that subject; and that case has been uniformly acted upon since, and must be law at the present day.

Then, my Lords, what have they produced on the other side? They have merely cited to your Lordships the statute of Queen Mary; but that statute of Queen Mary, as I submitted to your Lordships most confidently the other day, cannot interfere with this question, being merely a private act, relating to that particular marriage, the statute being most guarded in its terms, and never having been, so far as I can discover, used in any single instance to affirm any marriage similar to the one there referred to, much less a marriage with a deceased wife's sister. It has never been used for that purpose, or if it had been, it would, as I argued, have proved too much, inasmuch as it would sanction generally marriage with a brother's wife, which undoubtedly is prohibited in express terms by Leviticus. So that there is nothing in the cases or in the statute cited by my opponents, to impugn in the slightest degree these decisions, or to interfere with the law as I have ventured to lay it down before your Lordships.

Then, my Lords, what is the effect of the statute of William IV.? Simply to affirm the judgment of the Ecclesiastical Courts. It makes no difference in that respect; and although objections have been made to the statute, as if it really inflicted a hardship, I apprehend it is not open to that objec-

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tion. The statute did not interfere with the principle of the law at all; and when it stated that such marriages should in future be "void and not merely voidable," it merely made a distinction without a difference;—"voidable," in cases of marriage, always meant "void," for void they were according to the ecclesiastical law; and they were only said to be *voidable* because the courts of common law then had no jurisdiction upon the subject. The determination of the validity or invalidity of a marriage was left entirely to the ecclesiastical courts. It was ecclesiastical law and ecclesiastical courts which regulated those matters; and provided a marriage came before the courts having the stamp of the Church, and the authority of the Church in its favour, the courts of common law received it, and left it to the ecclesiastical courts entirely to set it aside if invalid. But when it was set aside,—when the ecclesiastical courts did interfere, then the marriage became void, and void *ab initio*. It was null and void to all intents and purposes; and in proof of that I would refer your Lordships again to a portion of my Lord Lyndhurst's judgment in the case of the Queen *v.* Millis, in illustration of that particular point, for he says (mentioning some authorities which had been furnished to him): "It (the libel in the case which he was citing) prays that the marriage may be pronounced to have been and to be, '*fuisse et esse*,' null and void, &c.; the evidence is set forth, and is followed by the sentence, which dissolves the marriage *de facto* with Alicia, and pronounces it *fuisse et esse invalidum*." And his Lordship afterwards says: "It further appears from the terms of the sentence, that the dissolved marriage was pronounced to have been and to be (*fuisse et esse*) void, agreeably to the rule of the ecclesiastical courts,—that when a marriage voidable by reason of pre-contract is annulled, it is annulled *ab initio*."

And, my Lords, in that work edited by my Lord Medwyn, which I have cited, it is shown, that in all those cases where, by the process of the courts, marriages have been impugned upon the score of consanguinity or affinity, the marriage is declared *fuisse et esse nullum*. Therefore it was merely a distinction arising from the want of jurisdiction in the temporal courts which led to the expression, "voidable" and "void;" *voidable* meant *void*, and the marriage was only awaiting the decision of the ecclesiastical court to determine that it had been *void ab initio*. The statute, therefore, of William IV., when it said they shall be "void and not merely voidable," did this—it merely transferred to the temporal courts, or, at least, gave to them jointly with the ecclesiastical courts, that power of determination upon the validity of certain marriages which had been confined to the ecclesiastical courts before. It enabled the courts of common law to determine at once that a marriage was void when it appeared to be within the prohibited degrees. It authorised them to take immediate cognisance of a matter of which before they had no judicial knowledge, and rendered it unnecessary for them to wait for the decision of the ecclesiastical courts to judge that a marriage was invalid. The statute made no alteration with regard to marriages themselves in that respect, because they were always void by the ecclesiastical law when within the prohibited degrees. It only enabled the courts of common law in a more summary manner and at once to determine for themselves, when the question came before them, without the assistance of the ecclesiastical courts.

Then, my Lords, objection was made to that statute, as if it were inconsistent with itself, in allowing certain marriages within the prohibited

degrees of affinity, which had been solemnised before the passing of that act, to stand, and by refusing to have them impugned. Why, my Lords, in that the legislature did no more than the courts had previously done. It made no difference with respect to the marriages themselves. It simply did this,—it adopted a new period of limitation, and it was merely a statute of limitation for this purpose, making no difference in principle whatever, because we know from repeated cases upon the subject, that after the death of either of the parties the temporal courts would not allow the ecclesiastical courts to institute, or carry through, any process for avoiding the marriage, because of bastardising the issue; and therefore, when either party had died, the period of limitation had arrived, after which the marriage itself could not be annulled. The legislature, by the statute of William IV., has merely adopted a new limitation. It has said that the marriages which were in existence prior to the passing of that act, and for the annulling of which no process had been instituted, should not be allowed to be annulled afterwards. It followed precisely the rule which the temporal courts had adopted, where either of the parties had died, and only therefore adopted a new period of limitation in certain cases. But, my Lords, the statute does not pretend to say that those marriages were either good or valid; and although I have looked carefully at the statute, I see nothing in it whatever to prevent the parties who have contracted those marriages from having a process instituted against them in the ecclesiastical courts for the incest, although not to set aside or annul the marriage. The statute leaves the matter precisely on the same footing as the courts did, in the case of *Harris v. Hicks*, in 2 *Salkeld*, where, after the death of one of the parties, although the temporal courts said, “We will not allow the ecclesiastical courts to carry on any process which shall annul the marriage, so as to bastardise the issue, we will not prevent them from punishing the surviving parties for the incest.” And that case, my Lords, has been expressly confirmed by Lord Hardwicke, in his judgment in *Brownsword v. Edwards*, in 2 *Vesey*, page 243. He adopted the rule laid down by the temporal court, and said that although the marriage could not be annulled by a process for that purpose, the parties might still be punished for the incest. The statute of William IV. leaves these marriages precisely in the same position. It does not pretend to affirm them, or to say that they are good marriages, or according to the law of God. It leaves the parties in their guilt, and, as I would submit, open still to punishment in the ecclesiastical courts for incest, just as in *Harris v. Hicks* they were left by the temporal courts in cases before the statute.

So that, my Lords, it really seems, looking at the whole case, that there is nothing in the statute of William IV. which can properly be objected to; that it altered nothing in point of principle; that it made no infringement upon the general rule; but took the law as it was before, and enforced, rather than annulled, those decisions of the ecclesiastical courts.

So that, my Lords, I think, as far as the ecclesiastical law is concerned, there has been but one uniform rule from the earliest period of the Church, and the earliest annals of this country, to the present, and that there is nothing either in the cases or in the late statute which in any respect interferes with those degrees of marriage, and those prohibitions which were left by the statute of Henry VIII., and that from the earliest period down to the present, one continued and connected series of law comes uniformly down to the present time; and it cannot be said now, that the statute of William

IV. has made any distinction or any difference in that respect, because the case of *Sherwood v. Ray*, to which I have referred your Lordships, and which was decided recently by the Privy Council, was subsequent to the passing of the statute of William IV., so that the statute cannot be contended to have made any alteration, and you have therefore the law brought down from the earliest period to the present time, in one unbroken chain. I think it is impossible that any case can come before your Lordships more clearly and more conclusively fixed and settled than this. Two or three times we have seen attempts made in the temporal courts to annul the proceedings of the ecclesiastical courts, or to prevent their holding these marriages to be contrary to God's law, or the Levitical degrees; but the temporal courts, so far from infringing or interfering with the ecclesiastical courts, have affirmed their decisions, and have distinctly recognised these marriages as illegal.

I now come, my Lords, in the last place, to the point which is peculiar to the case now before your Lordships, that of one of the parties being illegitimate; and I submit to your Lordships that that point can make no difference here, and that the laws of consanguinity and affinity apply to bastards, as they do to other persons. It is remarkable, that during so long a period this point should never have been expressly decided in this country; but I think it may be said of this, as of many other points, that it has been always, as it were, held in solution in the atmosphere of the courts, though it has never been precipitated in any particular case. The nearest case we have is that of *Haines v. Jeffcot*, in 5 *Modern Reports*, page 169, which is also reported in *Comyns' Reports*, page 2. The case, as reported in *Modern Reports*, contains the argument more fully, and the case as reported in *Comyns*, contains the decision of the judges more at length; and there the Lord Chief Justice (Holt, I think it was) appears to have said: "All the courts seem to think it would be very mischievous, if a bastard should not be accounted within the statute of 32 Henry VIII., for by that rule a man might marry his own daughter; and where it is said, that a bastard is the son of no one, this is in civil respects, and where there is an inheritance."

There is a later case, in 3 *Salkeld*, page 66, the *Queen v. Chafin*, and there the court said, "A bastard is 'terminus a quo,' he is the first of his family, for he hath no relation of which the law takes any notice;" *but this must be understood as to civil purposes, for there is a relation as to moral purposes, therefore he cannot marry his own mother or bastard sister.*

In the *King v. Hodnett*, in 1 *Term Reports*, this court held, that bastards were within the meaning of the Marriage Act, 26 George II., cap. 33, which requires the consent of the father, guardian, or mother, to the marriage of persons under age, who are not married by banns. Lord Mansfield said, "There is no reason to except illegitimate children, for they are within the mischief intended to be remedied by the Act." And Mr Justice Buller added, "The rule that a bastard is *nullius filius*, applies only to the case of inheritance; it was so considered by Lord Coke."

There is a case, my Lords, of *Horner v. Horner*, in *Haggard's Consistory Reports*, vol. i. page 352, in which Lord Stowell says: "According to the general policy of law in matters merely moral, a person is said to be restrained from marriage with illegitimate relations, as much as with legitimate ones; because the rules of prohibition of marriage arise out of natural relations, and though these rules (as received by our law) are perhaps

carried further than might seem necessary on mere moral and natural grounds, so far as they can be exactly ascertained by mere reason, yet as they are taken from the law of God, and have one common origin therein, they are all considered as of the same moral nature and obligation." It is, however, to be observed, that this matter does not appear to have yet received a final decision, because I see that in the case of *Haines v. Jeffcott* in 1 *Lord Raymond*, page 68, the cause was adjourned, and therefore no decision was given upon the question,—although undoubtedly the ecclesiastical court, the proper forum on questions of that nature, considered that in a case of that sort the marriage would be bad between illegitimate relations.

In the note to *Thomas's Coke upon Littleton*, vol. i. page 146, he says, "The rule that a bastard is 'nullius filius' applies only to the case of inheritances, and the ties of nature held as to maintenance, and many other purposes."

He cites also a variety of cases, to some of which I have referred your Lordships.

It is remarkable, my Lords, that the old authorities are to the same effect, for in *Bracton* (second book, page 21), speaking of the rules of succession and the right to property between heirs, it is said: "Si autem separatim, et per se, et unus eorum moriatur, sine hæredibus vel assignatis, res data revertetur ad donatorem pro defectu hæredis vel assignati, quia frater bastardus omnino extraneus est ei quoad successionem, licet non quoad sanguinem." He adopts, therefore, the distinction which appears to have been acted upon in the cases to which I have referred, and which is the same that was stated by Mr Justice Buller.

In *Ayliffe's Parergon*, the same thing appears in page 326. He says: "Though it is often said that there is no room for affinity without a marriage contract, yet both Accursius and Panormitan on the civil and canon law do each of them hold, that affinity may be contracted in bar to matrimony, without such a contract, though not in respect of other matters."

In the *Pupilla Oculi*, to which I have already referred your Lordships, the same rule is adopted in the 8th part, chapter 10, *De affinitate*; it is said: "Et oritur affinitas tam ex coitu fornicario quam matrimoniali seu legitimo, et generaliter ex omni carnali commixtione per quam vir et mulier dicuntur effici una caro;" and the author puts the connection of consanguinity as an impediment to marriage merely upon the fact of the parties being derived from the same blood, just in the same way as the canon law itself put it that the term "consanguinity" furnishes the rule, as being derived from "*con*" and "*sanguis*" and therefore that it is the natural connection, and not merely civil relationship, which is to be regarded in matters of matrimony.

The canon law is clear upon the subject, and the passage in the second part of the *Decretum* in the *Declaratio Arboris Consanguinitatis*, in the second volume of the *Corpus Juris Canonici*, page 1853, "Dicitur autem consanguinitas, quasi sanguinis unitas; a *con* et *sanguine*; quia de comuni sanguine descendunt: et quoad probationem conjugii non distinguo, an tales consanguinei sint producti ex uxorio coitu, vel ex fornicario."

So again, my Lords, under the *arbor affinitatis*, at the end of the third volume, it is said, "Quod per fornicarium coitum et incestuosum secundum nos contrahatur affinitas." And again, "Nec intererit quoad consanguinitatem vel affinitatem contrahendam ex justis nuptiis aliqui an ex damnato

coitu invicem copulati fuerint." And in Lancellottus, in his *Institutiones Juris Canonici*, it is stated, "Affinitas et consanguinitas contrahitur etiam ex damnato coitu."

In a work which I have here, my Lords,—a work of very great authority on the canon law, and referred to by Lord Stowell more than once in his judgments, as one of great value,—the *Aurea Summa of Hostiensis* (page 1198), this question is considered; and taking the case as it stood upon the civil law, he shows also what the rule was with the canon law. He says, that the rule was more confined in the civil law, but then that must be understood with reference to what the civil law was providing for, namely, succession to estates; but, he says, "Respondeo et dico præcedentia locum habere quoad ea quæ proveniunt ex jure civili, sed cum matrimonium sit de jure naturali, etiam inter tales dico matrimonium prohibendum, cum pater utrumque naturaliter genuerit, unde non est inspicienda, nisi sola conjunctio naturaliter; nam et naturalis filius jus agnationis non habet, et tamen inter ipsum et nepotem patris matrimonium contractum dissolvitur, cum enim civilis cognatio matrimonium solvat, multo fortius naturalis, quia in matrimoniis contrahendis non solum quid liceat secundum jus, sed quid deceat secundum honestatem spectandum est." Indeed, my Lords, I do not believe that there can be any doubt at all upon that being the universal rule of the canon law, that the question was simply as to natural relationship; and wherever that existed, then that the prohibitions of marriage should immediately apply.

In a work, my Lords, which I cited the other day, *Broüwer, de Jure Connubiorum*, and a most excellent work it is, at page 482, the 13th chapter of the second book, I read—"Adfinitas vel vera vel ficta est; vera ex conjunctione viri et feminae oritur; ficta ex sponsalibus, de quâ postea: vera adfinitas vel legitima, vel naturalis est; legitima conjungendæ adfinitatis causa fit ex nuptiis, naturalis ex stupro, scortatione, vulgiva gâ venere, concubinato, incestu. Nec consideratur, qualis sit concubitus, etiamsi per vim præcisam coactus, vel cum insanâ, ebriâ, somno profundo sepultâ ut nesciat se stuprari, commissus reperiatur. Utraque adfinitas jure canonico in prohibendis ejusdem efficaciz est, et cognationis sive legitimæ sive naturalis naturam imitatur. C. 10, causa 35, Q. 2, 3, quamvis earum diversa vis in aliis juris partibus conspiciatur." Then he goes on to show, in the rest of the chapter, how the rules of affinity apply merely from the fact of natural relationship, independently of any question of civil rights as connected with them, and that relationship by blood, whether that relationship arose from marriage or from illegitimate connection, was the rule that interfered with and prevented the marriage of the parties.

The Jewish Law appears to have been to the same effect, for in Selden's Treatise, *De Jure naturali et Gentium juxta Disciplinam Hebræorum*, in the 5th book, fol. 544, he says, "Quod vero ad fratrem et sororem attinet, eandem aiunt esse rationem fratris ex stupro seu adulterio ab alterutro parente suscepti, et ejus qui thoro natus est legitimo; uti etiam sororis. Et quod de sorore habent, ex verbis illis Mosis, *Quæ nata est domi aut genita est foris*, eliciunt. Tandundem habent de amitâ et materterâ; diversum non esse, sive ex nuptiis sive ex stupro seu adulterio alterutrius parentis prognatæ fuerint, modo ex naturalis sanguinis genere eum de cujus nuptiis quæritur contingant. Idem aiunt de filiâ sive ex uxore ante nuptias sive aliunde ex stupro aut adulterio genitiâ."

He therefore shows what was the rule which the Jews regarded with re-

spect to prohibitions ; that they regarded those as relations who were born of the same family, whether the connection was legitimate or illegitimate.

The rule seems to have been to a certain extent the same in the Civil Law. In *Cujacius*, 2nd vol. p. 1049, he says, "Imo et inter eos qui veniunt ex latere vel inter affines jure gentium incestum committitur. Et ex his, qui sunt a latere, constat sororem moribus uxorem duci non posse. Idem dicam de sororis filiâ l. 'etiam se concubinam,' D. eod. imo et de sororis aut fratris nepte vel pronepte, quia liberorum loco sunt. At d. l. *se adulterium*, s. 1, ait cum sororis filiâ jure civili incestum committi. Respondetur, inter parentes et liberos jure gentium incestum committi in infinitum, nec enim in rectâ lineâ ullo unquam gradu jure civili concessæ sunt nuptiæ. Inter fratres quoque et sorores, jure gentium incestum committitur: quia nec jure civili unquam inter eas personas permixtæ nuptiæ sunt, idcirco etiam vulgo quæsitam sororem uxorem ducere non licet. Idem dicam de socru, nuru, novercâ ; nam hæc conjunctio semper habitat est pro nefariâ, etiam si qua in patris tantum concubinato fuisset."

The same rule, my Lords, appears in Voet, in his work upon the Pandects, the 23rd book, and the 2nd title, p. 33. He says this: "Certum utique est, non modo ex justis nuptiis, sed ex vago concubitu descendantem cognationem matrimonia impedire. Certum quoque, non tantum ex matrimonio, sed et ex vetito cum meretrice congressu seu fornicatione eam nasci affinitatem, quæ ex juris Canonici præcepto nuptiis impedimento est, cap. 3; cap. 5; cap. 8: *extra. de eo, qui cognovit consanguineam uxoris suæ vel sponsæ*. Covarruvias de matrimonio, part 2, cap. 6, § 7, num. 3. Nec dubium, quin jure Romano prope nefaria fuerit conjunctio, si ea quæ in patroni fuerit concubinato, deinde filii vel nepotis concubina esse cœpisset, et ideo hujusmodi facinus prohibendum fuerit ac stupri pœnâ coercendum. Expeditum denique non modo serviles cognationes, sed et affinitates, nuptias, per manumissos deinde contrahendas, effecisse interdictas, utcumque nec concubinatus nec contubernium servorum, apud Romanos legitimæ conjunctiones fuerint, aut nuptiarum effectus sortitæ sint. Quibus consentaneum est, etiam hodie ob natam ex illicito coitu qualemqualem affinitatem matrimonia reprobari."

In Vinnius the same thing appears; for in his *Commentary*, book 1, title 10, page 66; *De nuptiis*, and as to the number of persons to be regarded as within the prohibition, there is this passage: "De eo ambigitur, an etiam ex illegitimâ conjunctione contrahatur affinitas? Sed dicendum est contrahi; nam si ex quovis coitu quantumvis illegitimo nascatur cognatio, cur non etiam affinitas intelligatur? Sic certe a cognatione quæ ex contubernio servorum descendit affinitatem servilem Paulus arguit, l. 14, s. 3, *hoc tit.* Neque ob aliam causam quam ob affinitatem, prohibetur filius patris sui concubinam uxorem ducere, l. 4, c. eod. aut in concubinato habere." He thus shows the rule of the civil law, that where persons were united or connected together by blood, without reference to the legitimacy or illegitimacy of the connection, that was an impediment to the marriage. It is clear that it was so by the canon law, and the authorities I have cited are I think sufficient to show that that rule, so adopted and laid down in various authorities both of the canon and civil law, has been and is to be regarded as the law of England. The courts of this country, the temporal courts as well as the ecclesiastical, seem to have adopted it; and my Lord Stowell, in the decision to which I have referred, seems to regard it as settled.

And now, my Lords, I believe I have (I fear at immoderate length) carried your Lordships through, not only the reasons on which I consider myself entitled to your Lordships' judgment, but also the authorities by which I think those reasons are supported. I have shown that the statute of William IV., whether it be looked at by the light of the statute law, or the ecclesiastical law, or the decisions of the courts of common law as explaining and affirming both, can be interpreted but in one way, and that that interpretation necessarily includes within the prohibited degrees the case of the marriage with the wife's sister. I have shown this with reference to the statute of 28 Henry VIII., cap. 7, which I submit is in force. I have shown it with respect to the 32nd Henry VIII., with reference to the term "Levitical degrees," and with reference to the chapter of Leviticus itself. I have shown the proper mode—the mode always adopted—of interpreting that chapter of Leviticus, and that the objections which have been made to this mode of interpretation are of no force, that they have not been acted on, and that they are not recognised. I have shown that that statute of Henry VIII., and the decisions upon it, are not interfered with by the statute of Queen Mary, and that Queen Mary's statute cannot be allowed to have any weight. And lastly, my Lords, I have shown that the ecclesiastical law of this country, from the earliest period to the present, has gone in one uniform course; and that whether before the Reformation, at the time of the Reformation, or since, the decisions have been uniform regarding marriage with a wife's sister as incestuous. I have then shown, not only that the authorities are one way, and that they are all consistent, but that there is not a single authority, as far as I can discover, the other way; and not a single statute which really interferes with the construction for which I contend; and I have shown your Lordships, that upon the continent the rules of the canon law, the rules of the civil law, and the practice of other nations, concur and conspire with the decisions of the courts of this country, and that the illegitimacy of one of the parties makes no difference. I would ask your Lordships, therefore, whether a case can be put before you more clear or more conclusive than this?—Pp 156-175.

B.

LEVITICAL LAW OF INCEST.—P. 68.

WHILE desirous that the argument on the special question discussed in the preceding work should be presented to the reader in a form as simple and unembarrassed as possible, the author is anxious that nothing should be wanting to make this work somewhat complete on the various points involved in the discussion. He therefore gives the following extracts from Dwight's "Hebrew Wife," on the subject of Incest. Mr Dwight says:—

The subject is, however, of so much intrinsic importance, as to justify any length of discussion which it fairly involves. If incest be now a sin, it is unquestionably a sin of no light magnitude. It was one of nine crimes for which the Canaanites were exterminated, and for which the Israelites were threatened with extermination. Under the Levitical law

those guilty of it were punished with death. Few sins are spoken of in the Scriptures as equally offensive to the eye of God. If then it be now a sin, and if many of the marriages now customary in this country are incestuous, it is most desirable that its guilt and danger should be fully exposed, and the degrees, within which marriage is prohibited, exactly ascertained.

The whole discussion involves but two questions:—What was the Levitical law of incest?—Is that law binding on us?

I. WHAT WAS THE LEVITICAL LAW OF INCEST?

The answer to this question will lead us to consider,

(I.) *The various sections of the law itself.*

The following is the whole law of incest, as promulgated to the Israelites.

Lev. xviii. 6. "None of you shall approach to any that are near of kin to him: I am the Lord. 7. The nakedness of thy father, or the nakedness of thy mother, shalt thou not uncover: she is thy mother; thou shalt not uncover her nakedness. 8. The nakedness of thy father's wife shalt thou not uncover: it is thy father's nakedness. 9. The nakedness of thy sister, the daughter of thy father, or daughter of thy mother, whether she be born at home or abroad, even their nakedness thou shalt not uncover. 10. The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover: for theirs is thine own nakedness. 11. The nakedness of thy father's wife's daughter, begotten of thy father, (she is thy sister), thou shalt not uncover her nakedness. 12. Thou shalt not uncover the nakedness of thy father's sister: she is thy father's near kinswoman. 13. Thou shalt not uncover the nakedness of thy mother's sister: for she is thy mother's near kinswoman. 14. Thou shalt not uncover the nakedness of thy father's brother: thou shalt not approach to his wife: she is thy aunt. 15. Thou shalt not uncover the nakedness of thy daughter-in-law: she is thy son's wife; thou shalt not uncover her nakedness. 16. Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness. 17. Thou shalt not uncover the nakedness of a woman and her daughter: neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they are her near kinswomen: it is wickedness. 29. For whosoever shall commit any of these abominations, even the souls that commit them shall be cut off from among their people."

Lev. xx. 11. "And the man that lieth with his father's wife, hath uncovered his father's nakedness: both of them shall surely be put to death; their blood shall be upon them. 12. And if a man lie with his daughter-in-law, both of them shall surely be put to death: they have wrought confusion: their blood shall be upon them. 14. And if a man take a wife and her mother, it is wickedness: they shall be burned with fire, both he and they; that there be no wickedness among you. 17. And if a man shall take his sister, his father's daughter, or his mother's daughter, and see her nakedness, and she see his nakedness, it is a wicked thing; and they shall be cut off in the sight of their people: he hath uncovered his sister's nakedness: he shall bear his iniquity. 19. And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister: for he uncovereth his near kin; they shall bear their iniquity. 20. And if a man shall lie with his uncle's wife, he hath uncovered his uncle's nakedness: they shall bear their sin: they shall die childless. 21. And if a man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness: they shall be childless."

Deut. xxii. 30. "A man shall not take his father's wife, nor discover his father's skirt."

Deut. xxvii. 20. "Cursed be he that lieth with his father's wife, because he uncovereth his father's skirt. 22. Cursed be he that lieth with his sister, the daughter of his father, or the daughter of his mother. 23. Cursed be he that lieth with his mother-in-law."

Having thus recited all the various sections of the Levitical law of incest, we are led, in answering the question, "What was that law?" to consider,

(II.) *The principles on which the law of incest is to be interpreted.*

As these have occasioned much controversy, and need to be settled, we shall examine some of them at length.

First, The intercourse here prohibited is sexual intercourse.

This will doubtless be admitted. If not, the phrases used in the law to explain it—to approach to, to uncover the nakedness, to take, and to lie with—place this point beyond controversy.

Secondly, The four phrases used to denote this intercourse have one and the same meaning. This too will probably be conceded; but if not, the proof is at hand. The first three of the phrases occur in Lev. xviii.; the last three in Lev. xx.; the second and third in Deut. xxii.; the second and fourth in Deut. xxvii.

In Lev. xviii. 6, which is the general summary of all the particular prohibitions, the prohibited intercourse is pointed out by the phrase—to approach to. In the particular prohibitions following, all included in the general summary, this prohibited intercourse is pointed out by the phrases—to uncover the nakedness, to take, and to lie with. The first phrase, therefore, has the same meaning with each of the other three, and they of course with each other. Again; in Lev. xviii. 14, the phrase—to uncover the nakedness, is explained by the phrase, to approach to; in Lev. xx. 11, by the phrase—to lie with; and in Lev. xx. 21, by the phrase—to take. These four phrases, then, as used in this law, have the same identical meaning.

Thirdly, The sexual intercourse here prohibited is every kind of sexual intercourse, but especially that of marriage.

This will be evident from the following considerations:—

1. From the direct meaning of the phrases employed to describe it. There is obviously nothing in either which limits its application to fornication and adultery, rather than to marriage. Thus the man who has conjugal intercourse with his sister, or his brother's wife, as fully and inevitably approaches to her, takes her, uncovers her nakedness, and lies with her, as the man who commits fornication or adultery with her. The very terms of the prohibition, therefore, include every species of sexual intercourse.

2. From the use of these phrases in the Scriptures at large.

(1.) To approach to, occurs nowhere but in Lev. xviii. 6 and 14; both of which are now under discussion.

(2.) To uncover the nakedness, is used in three instances to denote conjugal intercourse, Lev. xviii. 18; 1 Sam. xx. 30; and Isaiah lvii. 8. In two instances, it refers to unlawful intercourse, Ezek. xvi. 36 and xxiii. 18. The phrase is therefore general.

(3.) To take, in Hebrew *קָחָהּ*, when connected with *אִשָּׁהּ*, a woman, is the appropriate Hebrew phrase for to marry a wife. To take, used absolutely denotes the same thing: Gen. xxxiv. 2, 16, "And take our daugh-

ters unto you, and we will take your daughters to us." Deut. xx. 7, "Hath betrothed a wife, and hath not taken her." 1 Chron. xxii. 22, "And their brethren the sons of Kish took them." The instances of this kind are numberless. The only apparent exception to this use is in Ezek. xvi. 32, "But as a wife that committeth adultery, that taketh strangers instead of her husband." Here, however, to take, is used with reference to its connection with her husband, (that taketh not her husband, but strangers), and not independently of its reference to marriage. The phrase to take, therefore, is in all instances used with reference to marriage, and in all but one denotes to marry.

(4.) To lie with, denotes every species of sexual intercourse :—

- [1.] Marriage, Gen. xxx. 15, 16; Num. v. 20; 2 Sam. xi. 11.
- [2.] Fornication, Exod. xxii. 16; Deut. xxii. 23, 28.
- [3.] Adultery, Gen. xxxix. 7; Lev. xviii. 20; Num. v. 20.
- [4.] Rape, Deut. xxii. 25; 2 Sam. xiii. 14.
- [5.] Incest, Gen. xix. 32, 34.
- [6.] Sodomy, Lev. xviii. 22, xx. 15.
- [7.] Bestiality, Lev. xviii. 23, xx. 15.
- [8.] Intercourse generally, Lev. xv., *passim*; Judges xxi. 11.

When used without any thing, in the phraseology or the story, to qualify or limit its meaning, this phrase is always general; denoting any and every species of sexual intercourse.

From the scriptural use of these four phrases, therefore, it is evident, that these prohibitions are not limited to incestuous fornication or adultery, but include marriage also; and from the use of the phrase "to take," it is clear that incestuous marriage is the intercourse especially prohibited; the declared unlawfulness of that, involving, of course, and *a fortiori*, the unlawfulness of incestuous fornication and adultery.

3. From the meaning of those phrases in the law itself.

Lev. xviii. 18, "Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness beside the other, in her life-time.* 17. Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they are her near kinswomen: it is wickedness."

Lev. xx. 14, "And if a man take a wife and her mother, it is wickedness."

The first of these passages has received two different interpretations: both agreeing that the prohibited intercourse is marriage: but the one regarding the passage as prohibiting polygamy, and the other incest. The first of these interpretations is: If thou hast a wife, thou shalt not marry another wife until after her death, but then thou mayest. The second interpretation is: If thou hast a wife, thou shalt not marry her sister until after her death; for it will vex her; although thou mayest marry another woman, for that will not vex her; and after her death her sister also. Now if the intercourse here forbidden is not marriage, but fornication or adultery, then the prohibition, according to the first interpretation, will read thus: If thou hast committed fornication or adultery with one woman, thou shalt not afterwards commit fornication or adultery with another woman, during her life-time, for it will vex her; but after her death thou mayest. This rule would precisely accommodate modern Italy. According to the second interpretation, it will read thus: If thou hast committed fornication or adultery

* Those whom I oppose insist that this is a part of the law of incest.

with one woman, thou shalt not commit fornication or adultery with her sister, until after her death, for it will vex her; although thou mayest commit fornication or adultery with a woman who is not her sister; for that will not vex her; and after her death with her sister also.

The second of these passages, on the supposition that marriage is not here prohibited, will read thus: If thou hast committed fornication or adultery with a woman, thou shalt not afterwards commit either with her daughter, or her granddaughter; for they are her near kinswomen.

The third of these passages, on the same supposition, will read thus: And if a man shall commit fornication or adultery with a woman and her mother, it is wickedness.

A construction, involving these consequences, will not be seriously contended for as a valid construction of the law of God.

4. From the language of one section of the law, compared with the language of a subsequent statute, partially and conditionally repealing it.

The section of the law here referred to is Lev. xx. 21, "And if a man shall take his brother's wife, it is an unclean thing." The partially and conditionally repealing statute is in Deut. xxv. 5, 10. It was made with a special reference to the Levitical law of genealogies and descents. It directs a man, in the given circumstances, "to go in unto the wife of his deceased brother, and take her to him to wife;" and then says: "If he like not take his brother's wife," &c. To take, and to take to wife, in the repealing statute, then have one meaning; and no one will deny that to take has the same meaning, both in the enacting and repealing statutes. It means, therefore, to take to wife, in both.

5. From the interpretation always put upon these phrases by the Israelites. Throughout the whole of their history, so far as that history is recorded, the Israelites uniformly regarded the prohibition as a prohibition of marriage. They were certainly not inclined to works of supererogation, and doubtless may be regarded as best acquainted with the drift of their own laws, and as the best interpreters of their language.

6. From the interpretation always put upon these phrases by Christian churches and governments. They have uniformly regarded this prohibition as a prohibition of marriage.—We have thus a uniform construction of the law for more than three thousand years.

7. If this prohibition be not a prohibition of incestuous marriage, no marriages are incestuous; because none are prohibited, except by this law. Of course it is lawful to marry a mother, or daughter, a sister, or granddaughter. And as polygamy was, in the view of those whom I oppose, lawful in Israel, an Israelite might lawfully have had his grandmothers and mother, and daughters, and sisters, and granddaughters, as his wives, at the same time.

8. If marriage between persons within the specified degrees is not unlawful, then fornication between persons within those degrees is not more unlawful than between strangers. By the Levitical law, the man guilty of fornication with a woman, not near of kin to him, was compelled to marry her, provided her father wished it; but if not, he was obliged to pay to the father a sum of money, equal to what her marriage-portion would by law have been. By the law of incest, fornication with one near of kin, for example with a sister, was punished with death. I then ask, why is fornication with a sister more criminal than with a stranger, if marriage with a sister is as lawful as with a stranger? It is not owing to difference of pro-

pinquity ; for it is identically the same in marriage as in fornication. It is not owing to the fact, that there is sexual intercourse between a brother and sister ; for that exists in both cases. Neither is it owing to the fact that the intercourse is fornication ; for it is as truly and as fully so with a stranger as with a sister. Incestuous fornication in itself, therefore, involves no more turpitude than that between strangers.

But it will be said that, although the fornication in the two cases was equally criminal, yet a severer punishment was necessary for that which was incestuous, to prevent the continual occurrence of it in families.

This account of the subject is wholly inconsistent with the language of the law. The intercourse with a sister, as well as with every other kinswoman, prohibited in the law, is called, "a wickedness," "an abomination," "an abominable custom ;" and is spoken of as one of the crimes for which the land of Canaan vomited out its inhabitants. But this is not said of ordinary fornication.

In incestuous fornication also, detection was almost of course certain, whereas in incestuous adultery it was exceedingly difficult ; yet the punishment of adultery, whether incestuous or ordinary, was equally severe ; while that of fornication, if incestuous, was death, and only a fine if it was not incestuous. This immense difference could not have existed, in two cases of equal criminality, where detection trode closely on the heels of transgression.

The scheme alleged, also, would have been wholly incomplete. The language of the law of incest, thus interpreted, was : You may marry your sister, your daughter, or your mother, as innocently as a stranger. If you commit fornication with a stranger, you shall be fined. Fornication with your sister, or with those near of kin, is no more criminal than with a stranger ; yet there is greater danger that you will commit it. Therefore, if you do, you shall be put to death. No law, speaking such a language, could possibly answer its object. Let the consciences of men be once satisfied that sexual intercourse, as such, with their nearest connections, is no more criminal than with strangers ; and incest will become equally common with fornication and adultery. No matter what laws are made, or what punishments threatened ; if you remove the consciousness of deep criminality, you also remove, under any government not completely despotic, the possibility, and the dread, of punishment ; for it is only the enormous guilt of particular crimes which leaves the human conscience satisfied when exemplary punishment is inflicted.

Why is not the crime of incest now prevalent ? Why are our houses pure, and our families innocent ? It is because the law of God has placed a guard against the human passions, in that strong sense of guilt, in that instinctive horror at the bare thought of sexual intercourse with our near connections, which is impressed on our minds with the force of a second nature. "This restraint breaks down every propensity to incestuous commerce, and stifles those inclinations which nature for wise purposes has implanted in our breasts, at the approach of the other sex. It holds the mind in chains against the seductions of beauty. It is a moral feeling, in perpetual opposition to human infirmity. It is like an angel from heaven, placed to guard us against propensities that are evil. It is that warning voice, which enables you to embrace your daughter, however lovely, without feeling that she is of a different sex. It is that which enables you, in the same manner, to live familiarly with your nearest female relations,

without those desires which are natural to man." * Remove this sense of guilt, and families are dissolved. Children, instead of finding a perpetual home under the parental roof, would at an early age be banished from its threshold. "The sister could not approach her brother without fear of impurity. The father would find a rival in every son; and the mother, in every daughter.

9. If the law of incest did not forbid incestuous marriage, it was useless.

The Israelites had two general laws, forbidding fornication and adultery in all cases, as well with strangers as with relations. What necessity, then, was there of particular statutes, forbidding them with relatives. It may be said that the punishment of these offences, when incestuous, is more severe. But this is not true of adultery. When, therefore, it is said, *Leviticus xx. 11*, "He that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death;"—why add, "And the man that lieth with his father's wife, both of them shall surely be put to death," as well as numerous sections of a similar character, if the latter be mere prohibitions of adultery? What would be thought of the wisdom of a legislature, which should enact a similar statute with regard to any other crime; for example, that of horse-stealing:—"He who steals the horse of any person, shall be imprisoned three years;—He who steals his father's horse, shall be imprisoned three years;—He who steals his brother's horse, shall be imprisoned three years;—He who steals the horse of his father's brother, shall be imprisoned three years;"—and so on through a succession of thirty-three relatives? Is it not, then, equal folly to enact, with regard to adultery:—"He who commits adultery with any woman, shall be put to death:—He who commits adultery with his mother, shall be put to death;—He who commits adultery with his brother's wife, shall be put to death;—He who commits adultery with his father's brother's wife, shall be put to death,"—and so on through an equal succession.

10. If the law of incest did not prohibit incestuous marriages, its only effect was to weaken the force of the general statute respecting adultery. Every thing is lawful which is not prohibited by some law; and every thing is lawful, so far as a given law is concerned, which that law does not prohibit. And the more particular and circumstantial the terms of a penal law are, as the prohibition of the given offence is less general, so the stronger is the implication that the conduct under different circumstances is lawful. A law, forbidding fornication with females under twenty years of age, and assigning their age as the ground of the prohibition, would give rise to a strong implication, that with those who were older it was lawful.

The bare recitation of several of the prohibitions in question, altered to adapt them to the scheme which I oppose, will set the subject in a convincing light.

None of you shall commit adultery with any that are near of kin to him.

Thou shalt not commit adultery with thy mother; for she is thy mother; thou shalt not commit adultery with her.

Thou shalt not commit adultery with thine uncle's wife; for she is thine aunt.

Thou shalt not commit adultery with thy daughter-in-law; for she is thy son's wife.

* Lord Erskine.

Thou shalt not commit adultery with thy brother's wife; for she is thy brother's wife.

Thou shalt not commit adultery with a woman and her sister, during her lifetime.

Thou shalt not commit adultery with a woman and her daughter, nor with her granddaughter; for they are her near kinswomen.

And if a man commit adultery with a woman and her mother, it is wickedness.

Who does not see, from bare inspection, that the limitation of the prohibition to these cases of propinquity, with the regular assignment of the propinquity, in each case, as the reason why the connection is wrong, and why it is prohibited, carries with it to the mind an almost irresistible implication, that where propinquity did not exist, such connection was lawful? Is any one ready to charge such a mode of legislation on God?

11. The law of incest, established in the Koran, furnishes a striking commentary upon the gross licentiousness of the opposite interpretation. Mahomet had the Arabic translation of the Old Testament, and often made use of it in writing the Koran. In the fourth chapter of that work, he says: "Marry not women* whom your fathers have had to wife, for this is uncleanness, and an abomination, and an evil way. Ye are forbidden to marry your mothers, and your daughters, and your sisters, and your aunts, both on the father's and on the mother's side, and your brother's daughters, and your sister's daughters, and your wives' mothers, and your daughters-in-law, and the wives of your sons, and ye are also forbidden to take to wife two sisters."† This, as far as it extends, is substantially a repetition of the Levitical law of incest, accommodated, however, to a state of polygamy, and is in terms a prohibition of incestuous marriage. It will not be contended that Mahomet was influenced by any violent bigotry against licentiousness. Yet he had too much integrity to foist such an interpretation, as that which I am opposing, on the Old Testament, and too much purity to enact such a law, as that which is here charged on the Lawgiver of Israel.

I have been led to discuss this point at greater length than some of my readers may regard as necessary, because the advocates for one of the marriages long considered unlawful, when driven from a few of their first po-

* As Mahomet was legislating for polygamists, he mentions each female relative in the plural.

† It might be well for the legislature of New York to compare this law of Mahomet with their own law of incest of January 1, 1830. The law of Mahomet forbids a man to marry not only his lineal female relatives, both ascending and descending, but his sister, his aunt, and his niece—relations by consanguinity—and his father's wife, his wife's mother, his wife's sister, his wife's daughter, and his son's wife—relations by affinity; whereas the law of New York forbids him to marry none but his lineal female relatives and his sister. It is worthy of observation, also, that Cicero (*Orat. pro Cluentio*), speaking of the mother of Cluentius, thus characterises her marriage with her son-in-law: "*O mulieris scelus incredibile, et præter hanc unam in omni vita inauditum!*" Is it not passing strange that a Christian legislature, in its marriage-laws, should have exhibited a degree of licentiousness, of which the licentious prophet of Arabia would have been ashamed; and should have sanctioned numerous marriages, one of which,—that with a wife's mother,—the Roman orator, himself a heathen, pronounces "an incredible wickedness, until then unknown?" Are the good people of the State of New York generally aware that, in their State, it is lawful for a man to marry his aunt and his niece, by blood; as well as his father's wife, his son's wife, his wife's mother, his wife's daughter, and his wife's sister: all forbidden even by Mahomet, and several of them by the laws of heathen Rome? Has the possession of the Bible carried us downward, on the scale of moral elevation, far below the footing of Mahomet and his followers, and even below that occupied by the more decent heathens, and left us almost on the level of the ancient Canaanites?

sitions, resort usually to this—that no marriage is incestuous ;—and the most discerning of their number take this position in the outset. The evidence actually exhibited will, I flatter myself, satisfy every reader, that the law of incest as certainly forbade marriage, between the various correlatives whom it mentions, as every other species of sexual intercourse.—Pp. 45-57.

C.

DEGREES PROHIBITED.—P. 79.

For the reason assigned in the remarks introducing the preceding extract, the following statement and tables of prohibited degrees is extracted from the same valuable work,—viz., Dwight's "Hebrew Wife." Mr Dwight says :—

Having thus recited the sections of the Levitical law of incest, and ascertained the principles on which it is to be interpreted, we are led, in answering the question, "What was that law?" to consider,

(III.) *The marriages which the law of incest actually prohibited.*

In doing this we shall commence with lineals, and close with collaterals.

1. Lineals of the first degree by consanguinity.

Lev. xviii. 7, "The nakedness of thy father or the nakedness of thy mother, shalt thou not uncover ; she is thy mother ; thou shalt not uncover her nakedness."

Lev. xx. 11, "And the man that lieth with his father's wife, hath uncovered his father's nakedness ; both of them shall surely be put to death : their blood shall be upon them."

Deut. xxii. 30, "A man shall not take his father's wife, nor uncover his father's skirt."

Deut. xxvii. 20, "Cursed be he that lieth with his father's wife ; because he uncovereth his father's skirt."

In these passages marriage is expressly forbidden between a son and a mother ; but the propinquity is the same between a father and a daughter. They therefore may not intermarry. Hence,
A woman may not marry her

Son,
Father.

A man may not marry his
Mother,
Daughter.*

2. Lineals of the first degree by affinity.

Lev. xviii. 8, "The nakedness of thy father's wife shalt thou not uncover ; it is thy father's nakedness." †

Lev. xviii. 15, "Thou shalt not uncover the nakedness of thy daughter-in-law : she is thy son's wife ; thou shalt not uncover her nakedness."

Lev. xviii. 17, "Thou shalt not uncover the nakedness of a woman and her daughter : it is wickedness."

Lev. xx. 12, "And if a man lie with his daughter-in-law ; both of them shall surely be put to death."

* The implied cases are italicised.

† This passage certainly forbids marriage with a stepmother, because the preceding verse forbids it with an own mother. Several of the passages recited under the last head also forbid marriage with a stepmother.

Lev. xx. 14, "And if a man take a wife and her mother; they shall be burnt with fire."

Deut. xxvii. 20, "Cursed be he that lieth with his mother-in-law."

Marriage is here expressly forbidden with a stepmother (Lev. xviii. 8), with a stepdaughter (Lev. xviii. 17, and xx. 14), with a mother-in-law (Lev. xviii. 17, and xx. 14, and Deut. xxvii. 20), and with a daughter-in-law (Lev. xviii. 15, and xx. 12). Hence,

A woman may not marry her

Step-son,
Step-father,
Father-in-law,
Son-in-law.

A man may not marry his

Step-mother,
Step-daughter,
Daughter-in-law,
Mother-in-law.

3. Lineals of the second degree by consanguinity.

Lev. xviii. 10, "The nakedness of thy son's daughter, or of thy daughter's daughter, thou shalt not uncover; for theirs is thine own nakedness."

As a woman is just as near to her son's son, and her daughter's son, as a man to his son's daughter and his daughter's daughter, the prohibition of the two latter implies that of the two former. Hence,

A woman may not marry her

Father's father,
Mother's father,
Son's son,
Daughter's son.

A man may not marry his

Son's daughter,
Daughter's daughter,
Father's mother,
Mother's mother.

Or more concisely, and in more customary language,

Grandfather,
Grandson.

Granddaughter,
Grandmother.

4. Lineals of the second degree by affinity.

Lev. xviii. 17, "Thou shalt not uncover the nakedness of a woman, and her son's daughter, or her daughter's daughter: it is wickedness." This passage pronounces the propinquity between a grandmother and her granddaughter (whether her son's daughter or her daughter's daughter) to be so great, that it is not lawful for a man, who is the husband of either, to marry the other. This clause, therefore, in express terms, forbids marriage between a man and his wife's granddaughter, whether her son's daughter or her daughter's daughter, and between a man and his wife's grandmother, whether her father's mother or her mother's mother. But a woman has identically the same propinquity to her husband's grandson on the one hand, whether his son's son or his daughter's son, and to her husband's grandfather on the other, whether his father's father or his mother's father. Hence,

A woman may not marry her

{ Father's mother's husband,
{ Mother's mother's husband,
{ Son's daughter's husband,
{ Daughter's daughter's husband,
{ Husband's son's son,
{ Husband's daughter's son,
{ Husband's father's father,
{ Husband's mother's father.

A man may not marry his

{ Wife's son's daughter,
{ Wife's daughter's daughter,
{ Wife's father's mother,
{ Wife's mother's mother,
{ Father's father's wife,
{ Mother's father's wife,
{ Son's son's wife,
{ Daughter's son's wife.

Or more concisely, and in more customary language,
Grandmother's husband,
Granddaughter's husband,
Husband's grandson,
Husband's grandfather.

Wife's granddaughter,
Wife's grandmother,
Grandfather's wife,
Grandson's wife.

N

5. Collaterals of the first degree by consanguinity.

Lev. xviii. 9, "The nakedness of thy sister, the daughter of thy father or the daughter of thy mother, whether she be born at home or abroad, even their nakedness thou shalt not uncover."

Lev. xviii. 11, "The nakedness of thy father's wife's daughter, begotten of thy father, (she is thy sister), thou shalt not uncover her nakedness."

Lev. xx. 17, "And if a man shall take his sister, his father's daughter or his mother's daughter, and see her nakedness, and she see his nakedness: it is a wickedness; and they shall be cut off in the sight of their people: he hath uncovered his sister's nakedness, he shall bear his iniquity."

Deut. xxvii. 22, "Cursed be he that lieth with sister, the daughter of his father, or the daughter of his mother."

Each of these passages forbids marriage in express terms between a brother and a sister, both of the whole and of the half blood. Hence,

A woman may not marry her

A man may not marry his

Brother.

Sister.

6. Collaterals of the first degree by affinity.

Lev. xviii. 16, "Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness."

Lev. xx. 21, "And if a man shall take his brother's wife, it is an unclean thing: he hath uncovered his brother's nakedness: they shall be childless."

These passages, in express terms, forbid marriage between a husband's brother and a brother's wife. But the propinquity between a wife's sister and a sister's husband is identically the same. Hence,

A woman may not marry her

A man may not marry his

Husband's brother,
Sister's husband,

Brother's wife,
Wife's sister.

7. Collaterals of the second degree by consanguinity.

Lev. xviii. 12, 13, "Thou shalt not uncover the nakedness of thy father's sister: thou shalt not uncover the nakedness of thy mother's sister."

Lev. xx. 19, "And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister: for he uncovereth his near kin: they shall bear their iniquity."

These passages expressly forbid marriage between a man and his father's sister or his mother's sister: that is, between a nephew and his aunt; but their propinquity is identically the same as that between a woman and her father's brother or her mother's brother; that is, between a niece and her uncle. Hence,

A woman may not marry her

A man may not marry his

Brother's son,
Sister's son,
Father's brother,
Mother's brother.

Father's sister,
Mother's sister,
Brother's daughter,
Sister's daughter.

Or more concisely, and in more customary language,

Nephew,
Uncle.

Aunt,
Niece.

8. Collaterals of the second degree by affinity.

Lev. xviii. 14, "Thou shalt not uncover the nakedness of thy father's brother: thou shalt not approach to his wife; she is thine aunt."

Lev. xx. 20, "And if a man shall lie with his uncle's wife, he hath uncovered his uncle's nakedness: they shall bear their sin: they shall die childless."

The phrase, "an uncle's wife," includes both a father's brother's wife, and a mother's brother's wife. This passage, therefore, expressly forbids marriage between a husband's nephew and an uncle's wife. But a wife's niece is just as near to an aunt's husband; that is, to a father's sister's husband or a mother's sister's husband. In the same manner, a husband's uncle is just as near to a nephew's wife; that is, to a brother's son's wife or a sister's son's wife. In the same manner, a wife's aunt is just as near to her niece's husband; that is, to her brother's daughter's husband and her sister's daughter's husband. These, therefore, are forbidden to intermarry. Hence,

A woman may not marry her

{ Husband's brother's son,
{ Husband's sister's son,
{ Father's sister's husband,
{ Mother's sister's husband,
{ Husband's father's brother,
{ Husband's mother's brother,
{ Brother's daughter's husband,
{ Sister's daughter's husband.

A man may not marry his

{ Father's brother's wife,
{ Mother's brother's wife,
{ Wife's brother's daughter,
{ Wife's sister's daughter,
{ Brother's son's wife,
{ Sister's son's wife,
{ Wife's father's sister,
{ Wife's mother's sister.

Or more concisely, and in more customary language,

Husband's nephew,
Aunt's husband,
Husband's uncle,
Niece's husband.

Uncle's wife,
Wife's niece,
Nephew's wife,
Wife's aunt.

The above are all the marriages prohibited by the Levitical law of incest. The following tables exhibit them at one view: those expressly forbidden in Roman letters, and those by implication in italics.

TABLE I.

A woman may not marry her

1. Son,
2. *Father,*
3. Mother's husband,
4. Husband's son,
5. Husband's father,
6. Daughter's husband,
- { 7. Father's father,
- { 8. Mother's Father,
- { 9. *Son's son,*
- { 10. *Daughter's son,*
- { 11. Father's mother's husband,
- { 12. Mother's mother's husband,
- { 13. Son's daughter's husband,
- { 14. Daughter's daughter's husband,
- { 15. *Husband's father's father,*
- { 16. *Husband's mother's father,*
- { 17. *Husband's son's son,*
- { 18. *Husband's daughter's son,*
19. Brother.*

A man may not marry his

1. Mother,
2. *Daughter,*
3. Wife's daughter,
4. Father's wife,
5. Son's wife,
6. Wife's mother,
- { 7. Son's daughter,
- { 8. Daughter's daughter,
- { 9. *Father's mother,*
- { 10. *Mother's mother,*
- { 11. Wife's son's daughter,
- { 12. Wife's daughter's daughter,
- { 13. Wife's father's mother,
- { 14. Wife's mother's mother,
- { 15. *Son's son's wife,*
- { 16. *Daughter's son's wife,*
- { 17. *Mother's father's wife,*
- { 18. *Father's father's wife,*
19. Sister.*

* Brother and sister, both of the whole and of the half blood, are expressly forbidden to marry. A conscientious man will, of course, consider the same rule as extending to all

{ 20. Husband's brother,	{ 20. Brother's wife,
{ 21. <i>Sister's husband,</i>	{ 21. <i>Wife's sister,</i>
{ 22. Brother's son,	{ 22. Father's sister,
{ 23. Sister's son,	{ 23. Mother's sister,
{ 24. <i>Father's brother,</i>	{ 24. <i>Brother's daughter,</i>
{ 25. <i>Mother's brother,</i>	{ 25. <i>Sister's daughter,</i>
{ 26. Husband's brother's son,	{ 26. Father's brother's wife,
{ 27. Husband's sister's son,	{ 27. Mother's brother's wife,
{ 28. <i>Father's sister's husband,</i>	{ 28. <i>Wife's brother's daughter,</i>
{ 29. <i>Mother's sister's husband,</i>	{ 29. <i>Wife's sister's daughter,</i>
{ 30. <i>Husband's father's brother,</i>	{ 30. <i>Brother's son's wife,</i>
{ 31. <i>Husband's mother's brother,</i>	{ 31. <i>Sister's son's wife,</i>
{ 32. <i>Brother's daughter's husband,</i>	{ 32. <i>Wife's father's sister,</i>
{ 33. <i>Sister's daughter's husband.</i>	{ 33. <i>Wife's mother's sister.</i>

In this table, the correlatives, who may not intermarry, are placed opposite each other, and numbered alike. In the table which follows, the correlatives are arranged as in our common Bibles.

TABLE II.

A woman may not marry her

- * 7. Father's father,
- * 8. Mother's father,
- + 11. Father's mother's husband,
- + 12. Mother's mother's husband,
- + 15. *Husband's father's father,*
- + 16. *Husband's mother's father,*
- * 24. *Father's brother,*
- * 25. *Mother's brother,*
- + 28. *Father's sister's husband,*
- + 29. *Mother's sister's husband,*
- + 30. *Husband's father's brother,*
- + 31. *Husband's mother's brother,*
- * 2. *Father.*
- + 3. Step-father,
- + 5. Husband's father,
- * 1. Son,
- + 4. Husband's son,
- + 6. Daughter's husband,
- * 19. Brother,
- + 20. Husband's brother,
- + 21. *Sister's husband,*
- * 9. *Son's son,*
- * 10. *Daughter's son,*
- + 13. Son's daughter's husband,
- + 14. Daughter's daughter's husband,
- + 17. *Husband's son's son,*
- + 18. *Husband's daughter's son,*
- * 22. Brother's son,
- * 23. Sister's son,
- + 32. *Brother's daughter's husband,*
- + 33. *Sister's daughter's husband,*
- + 26. Husband's brother's son,
- + 27. Husband's sister's son.

A man may not marry his

- * 9. *Father's mother,*
- * 10. *Mother's mother,*
- + 17. *Father's father's wife,*
- + 18. *Mother's father's wife,*
- + 13. Wife's father's mother,
- + 14. Wife's mother's mother,
- * 22. Father's sister,
- * 23. Mother's sister,
- + 26. Father's brother's wife,
- + 27. Mother's brother's wife,
- + 32. *Wife's father's sister,*
- + 33. *Wife's mother's sister,*
- * 2. Mother,
- + 4. Step-mother,
- + 6. Wife's mother,
- * 1. *Daughter.*
- + 3. Wife's daughter,
- + 5. Son's wife,
- * 19. Sister,
- + 21. *Wife's sister,*
- + 20. Brother's wife,
- * 7. Son's daughter,
- * 8. Daughter's daughter,
- + 15. *Son's son's wife,*
- + 16. *Daughter's son's wife,*
- + 11. Wife's son's daughter,
- + 12. Wife's daughter's daughter,
- * 24. *Brother's daughter,*
- * 25. *Sister's daughter,*
- + 30. *Brother's son's wife,*
- + 31. *Sister's son's wife,*
- + 28. *Wife's brother's daughter,*
- + 29. *Wife's sister's daughter.*

other collateral relatives by consanguinity and affinity, on the ground that he cannot consent to incur half of the guilt of incest.

- * Her own relations by consanguinity.
- + Her own connection by affinity.
- + Her husband's relations by consanguinity.

- * His own relations by consanguinity.
- + His own connection by affinity.
- + His wife's relations by consanguinity.

TABLE III.

A woman may not marry her

Grandfather,
Grandmother's husband,
Husband's grandfather.

Father,
Step-father,
Husband's father.

Son,
Daughter's husband,
Step-son.

Grandson,
Granddaughter's husband,
Husband's grandson.

Brother,
Sister's husband,
Husband's brother.

Uncle,
Aunt's husband,
Husband's uncle.

Nephew,
Niece's husband,
Husband's nephew.

A man may not marry his

Grandmother,
Grandfather's wife,
Wife's grandmother.

Mother,
Step-mother,
Wife's mother.

Daughter,
Son's wife,
Step-daughter.

Granddaughter,
Grandson's wife,
Wife's granddaughter.

Sister,
Brother's wife,
Wife's sister.

Aunt,
Uncle's wife,
Wife's aunt.

Niece,
Nephew's wife,
Wife's niece.

This table embraces the same relatives as the two preceding, but expressed more concisely; lineals first, and collaterals afterwards. In each triad of relatives, the first is a relative by the individual's own consanguinity; the second, by the individual's own affinity; the third, by the consanguinity of the married partner. The law has thus a beautiful and truly mathematical simplicity.

By attentively examining the preceding tables we shall discover the following results:—

1. Marriage is prohibited between all lineals and all collaterals of the first and second degrees, both by consanguinity and affinity. The lineals include all, both in the ascending and descending series, with whom marriage, according to the present length of human life, is physically possible. The collaterals include all with whom one associates on the footing of brothers or sisters, of children of brothers or sisters, and of brothers or sisters of parents. Between an individual and these relatives, there is and ought to be all the intimacy of the most pure and confidential love; and the mind in which it dwells ought to prove to it a sanctuary so secure, so holy, that no sensual desire should ever intrude to soil its purity or jeopard its repose. In the sanctions of the law of incest, this very safeguard is furnished to it by God.

2. The second table is the same with that in our common Bibles: comprising identically the same relations, and in the same arrangement, in each column. In the table in the Bible, the six first relations, however, are ex-

pressed more concisely and comprehensively : in the first column, by the words grandfather, grandmother's husband, and husband's grandfather : and in the second, by grandmother, grandfather's wife, and wife's grandmother : each of these including two of the relatives in the second table.

3. The number of cases, expressly prohibited, is seventeen ; and that of those prohibited by implication, sixteen.

4. Of the express cases, six are by consanguinity, and eleven by affinity : and of the implied cases five are by consanguinity, and eleven by affinity.

5. The first column exhibits thirty-three relations which a woman may not marry : of which eleven are her own relations by blood, eleven her own relations by marriage, and eleven her husband's relations by blood. The second column exhibits the same results, *mutatis mutandis*, as to the relatives which a man may not marry.

6. Of the twenty-two relations by affinity, which a man may not marry, six of his wife's and five of his own are expressly prohibited ; and five of his wife's and six of his own, by implication : whereas of the twenty-two relations by affinity, which a woman may not marry, five of her husband's and six of her own are express cases, and six of her husband's, and five of her own are implied cases.

7. Wherever a man is forbidden to marry a given relation of his own by consanguinity, he is also forbidden to marry the same relation of his own by affinity, and the same relation of his wife by consanguinity. But he is forbidden to marry no relation of his wife by affinity. In other words, double affinity is not regarded by the law as in any case amounting to a debarring propinquity. Of course, a man has a right to marry the widow of his wife's father, son, brother, uncle, or nephew. The same is true, *mutatis mutandis*, of a woman.

8. The lineals prohibited are eighteen in number, six by consanguinity, three express and three implied ; and twelve by affinity, eight express, and four implied ; the collaterals are fifteen in number, five by consanguinity, three express, and two implied ; and ten by affinity, three express, and seven implied.

9. The law does not prohibit the intermarriage of collaterals of the third degree by consanguinity ; that is, of first cousins : nor of course those more remote. Many suppose the intermarriage of first cousins to be physically inexpedient. Where this impression is strong enough to counteract any propensity that may exist in favour of such a marriage, it will of course prevail. But God has not forbidden it. There must be obviously a partition wall, somewhere between the inner and the outer courts of this temple, which no unhallowed foot may pass ; and that which is actually erected appears to us to be erected on the very line of demarcation which infinite wisdom and purity must have drawn. At all events, when we find that God has erected it where it is, we are satisfied that it is right.—Pp. 74–83.

THE END.

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